

American Company (a Corporation under the Imperial Joint Stock Companies Act), and the intention and effect of such merger was to put an end to the existence of the Newfoundland Company as a Corporation.

See reference to this Act at General Meetings above.

8. That an Act of the Legislature of Newfoundland had been passed, which authorized such consolidation being entered into, and the transference of the rights of the Newfoundland Company to the Anglo-American Company, but no such Legislation was sought or obtained in the Province of Prince Edward Island.

9. That the Committee believe that, by the terms of amalgamation, the Anglo-American Company retained part of the consideration (135,000*l.*) going to the proprietors of the Newfoundland Company against the pre-emptive claim of the Province of Newfoundland, but that there was no similar provision as to Prince Edward Island.

10. That the concession in the latter Province would appear not to have been deemed of any importance to the contracting parties, or to have formed an element of value in the consideration.

11. That at the same time that negotiations for this amalgamation were proceeding between the Telegraph Companies in May 1873, terms of union between the Province of Prince Edward Island and the Dominion were being discussed, and neither Government could have considered that the Island was in any way subject to any exclusive concession in favour of any Telegraphic Company, for it was an absolute obligation imposed on the Dominion that it should maintain telegraphic communication between the island and the mainland of the Dominion, as well as an efficient steam service for mails and passengers.*

Statutes Canada,
37 Vict., c. 82.

12. The Parliament of Canada during the last Session passed a Private Act, introduced after the duly published preliminary notices, whereby the Dominion Telegraph Company was authorized to extend its lines by cable into Prince Edward Island.

13. It would, therefore, appear to be very questionable whether, under these circumstances, the Newfoundland Company having ceased to exist, any monopoly or concession it might have been possessed of is not also at an end, quite independently of the fact that no transfer of any such exclusive privilege or concession was made, or could be made, without the sanction of the Prince Edward Island Legislature.

It may further be observed that, as far as the Committee can ascertain, this concession does not appear to have formed any part of the consideration for the purchase by the Anglo-American Company, and that as the Dominion has itself assumed the obligation of maintaining telegraphic communication between the Island and mainland, there was nothing which the Anglo-American Company could have urged before the Legislature (if it had thought fit to do so), based on any circumstances connected with Prince Edward Island, which could have availed to defeat the Marine Telegraph Bill or to form the subject of compensation.

There can be no doubt but that the Parliament of Canada fully considered the effect of this Bill, and that although it was urged on behalf of the Anglo-American Company that the interests of the proprietors would be seriously affected if the Company was obliged to give up its occupation, for cable purposes, of the shores of Canada, which, by the provisions of the Bill, it can only retain by consenting to give equivalent privileges to any other company in Newfoundland. The Parliament of Canada considered this occupation to be only on sufferance, and determinable at will.

That such occupation appears to have been taken and used without any authority (which would constitute it a right), but that such occupation can only be lawful and continue by compliance with the terms of the Act, and on condition that the Company yield the like privilege to any other Corporation in Newfoundland.

That no franchise or favour of the Anglo-American Company existed in any part of Canada, and that the Company could not lawfully assume to exercise any such, except with the sanction of the Parliament of Canada.

That it is obvious that Parliament would not recognize the position claimed by the Anglo-American Company, inasmuch as by so doing it would admit that by virtue of an Act of Newfoundland, the Company had gained and could retain in Canada without the sanction of its supreme authority, privileges in the nature of a monopoly.

In conclusion, the Committee desires to call attention to the fact that while the Bill is plainly within the powers and jurisdiction of the Parliament of Canada, the original grant by Newfoundland was declared contrary to Imperial policy. (See despatch January 18, 1858.)

* See Order in Council, Court at Windsor, 26th June, 1873. Appointing of Union, and Schedule of Terms annexed. Statutes of Canada postponed; p. xii.