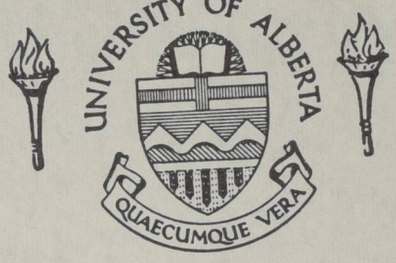
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Colonies

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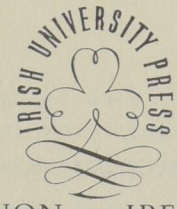
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1875-77

Colonies

Canada

28



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Contents

IUP Page Number

For ease of reference IUP editors have assigned a continuous pagination which appears on the top outer margin of each page.

Taxes and Imposts
Return of the Rates of All Taxes and Imposts from which the Revenue of Canada was Raised for the Year ending June 1871
1875 (32) Vol LI 9

British Columbia
Correspondence Relating to the Canadian Pacific Railway Act with Appendix
1875 [c.1217] Vol LII 19

Immigration and Colonisation
First Report from the Select Committee of the Parliament of Canada
1875 (275) Vol LII 123

Marine Electric Telegraphs
Correspondence Relating to a Reserved Bill of the Parliament of Canada
1875 [c.1171] Vol LII 155

Prince Edward Island
Correspondence Relating to the Land Tenure Question with Appendix
1875 [c.1351] Vol LIII 167

Immigration of Pauper Children
Report to the Local Government Board with Appendix
1875 (9) Vol LXIII 259

Prince Edward Island
Further Correspondence Relating to the Land Tenure Question with Appendix
1876 [c.1487] Vol LIII 301

Merchant Shipping Legislation
Correspondence between Her Majesty's Government and the Government of Canada
1876 (187) Vol LXVI 347

Continued

2069083

Contents

Continued

IUP Page Number

Duty on Fish and Fish Oil Exports
Correspondence Relating to the Duty Imposed on Exports from British Columbia into the United States
1876 [c.1548] Vol LXXXII 385

Duty on Canned Fish Exports
Correspondence Relating to the Duty Imposed on Exports from Canada to the United States
1876 [c.1550] Vol LXXXII 401

Canal Navigation
Correspondence Relating to the Navigation of United States Canals by Canadian Vessels
1876 [c.1549] Vol LXXXII 423

Extradition Returns
Report from the Privy Council with Lord Carnavon's Reply
1877 [c.1683] Vol LXI 457

Monasteries and Convents
Returns
1877 (385) Vol LXVI 459

Monasteries and Convents
Further Returns
1877 [c.1828] Vol LXVI 475

Immigration of Pauper Children
Reply from Mr Doyle to Miss Rye's Report
1877 (263) Vol LXXI 489

Immigration of Pauper Children
Further Correspondence
1877 (392) Vol LXXI 507

TAXES AND IMPOSTS (COLONIES).

FURTHER RETURN to an Address of the Honourable The House of Commons, dated 13 May 1870;—*for*,

"RETURN of the RATES of all TAXES and IMPOSTS from which the REVENUES of the several COLONIES of the BRITISH EMPIRE were raised, together with the Gross Amount yielded by each Tax or Impost, showing the Total Gross Revenue of each Colony in the Year 1868, or the last Financial Year for which the same can be obtained, with the Cost or Charge of Collecting the same under each Head, these respective Charges being deducted, and leaving the Nett Amount of Revenue (in the same form as the Parliamentary Return relating to the United Kingdom, No. 427, of Session 1869)."

(Further as relates to the DOMINION of CANADA, in continuation of House of Commons Papers, No. 247, of 1872, and No. 354, of 1874.)

Colonial Office,
5 February 1875.

JAMES LOWTHER.

(*Mr. Brogden.*)

Ordered, by The House of Commons, *to be Printed,*
12 *February* 1875.

DOMINION OF CANADA.

RETURN of the RATES of all TAXES and IMPOSTS from which the REVENUE of CANADA was raised in the Year ending 30th June 1871.

CUSTOMS.

Under what Authority.	ARTICLES.	Rate of Tax or Impost.	Quantities Taxed.	Value.	Duty.	TOTAL.	REMARKS.
	Goods paying Specific Duties:	*Dolls. cts.*		*Dolls.*	*Dolls. cts.*	*Dolls. cts.*	
31 Vict. c. 44 -	Acid, sulphuric - - -	0 00½ per lb. -	442,157	9,269	2,210 87		
33 Vict. c. 9 -	Acid, acetic and vinegar - -	0 10 per gallon -	157,398	30,971	15,740 05		
31 Vict. c. 44 -	Butter - - - - -	0 04 per lb. - -	5,926	1,203	237 04		
33 Vict. c. 9. -	Coal and coke - - - -	0 50 per ton -	244,265	918,288	122,132 82	- -	Since repealed from the 1st April 1871.
33 Vict. c. 9 -	Cigars - - - - - -	0 45 per lb. - -	240,256	217,945	108,115 37		
31 Vict. c. 44 -	Cheese - - - - - -	0 03 per lb. - -	66,475	10,080	1,994 64		
31 Vict. c. 44 -	Coffee, green - - - -	0 03 per lb. - -	1,715,670	204,148	51,470 11	- -	Repealed from the 1st July 1872.
31 Vict. c. 44 -	Coffee, kiln dried, roasted, or ground.	0 04 per lb. - -	9,523	1,159	380 92		
31 Vict. c. 44 -	Chicory, or other root or vegetable used as coffee raw or green.	0 03 per lb. - -	3,853	176	115 59		
31 Vict. c. 44 -	Chicory, kilndried, roasted, or ground.	0 04 per lb. - -	176,763	7,452	7,070 64		
31 Vict. c. 44 -	Fish, salted or smoked - -	0 01 per lb. - -	553,084	32,170	5,530 84		
33 Vict. c. 9 -	Flour, wheat or rye - - -	0 25 per barrel -	221,639	1,265,336	55,409 05	- -	Repealed from 1st April 1871.
33 Vict. c. 9 -	Flour, of any other grain, including Indian meal and oatmeal.	0 15 per barrel -	30,532	125,746	4,595 05	- -	Repealed from 1st April 1871.
33 Vict. c. 9 -	Fruits, preserved in brandy or other spirits.	1 20 per gallon -	93	167	111 60		
33 Vict. c. 9 -	Grain, including peas, beans, barley, rye, oats, Indian corn, buckwheat, and all other grain.	0 03 per bushel -	1,184,410	723,635	35,532 78	- -	Repealed from 1st April 1871.
33 Vict. c. 9 -	Grain, wheat - - - -	0 04 per bushel -	667,670	671,760	26,706 86	- -	Repealed from 1st April 1871.
33 Vict. c. 9 -	Hops - - - - - -	0 05 per lb. -	193,923	30,641	9,696 15		
31 Vict. c. 44 -	Lard and tallow - - -	0 01 per lb. - -	186,753	19,680	1,867 53		
31 Vict. c. 44 -	Meats, fresh, salt, or smoked -	0 01 per lb. - -	4,608,858	493,327	46,088 59		
31 Vict. c. 44 -	Molasses, for refining purposes -	0 73 per 100 lb. -	274,400	5,725	2,005 31		
31 Vict. c. 44 -	Malt - - - - - -	0 40 per bushel -	1,260	1,962	504 00		
31 Vict. c. 44 -	Oils, viz:—						
	Coal and Kerosene, distilled, purified, and refined.	0 15 per gallon -	83,745	22,288	12,562 01		
	Naphtha benzole, and refined petroleum.	0 15 per gallon -	31,019	7,442	4,652 96		
	Products of petroleum, coal shale, and lignite, not otherwise specified.	0 10 per gallon -	33,722	6,860	3,372 55		
	Crude petroleum - - -	0 06 per gallon -	16,824	4,550	1,009 44		
33 Vict. c. 9 -	Rice - - - - - -	0 01 per lb. - -	5,426,170	136,112	54,261 70		
31 Vict. c. 44 -	Soap, common - - - -	0 01 per lb. - -	305,689	17,397	3,056 89		
31 Vict. c. 44 -	Starch - - - - - -	0 02 per lb. - -	177,970	12,795	3,559 41		
33 Vict. c. 9 -	Salt, except salt imported from the United Kingdom, or any British possessions, or for the use of the seas and Gulf Fisheries which shall be free of duty.	0 05 per bushel of 56 lbs.	74,637	17,882	3,731 99	- -	Repealed from 1st April 1871.

CUSTOMS—*continued.*

Under what Authority.	ARTICLES.	Rate of Tax or Impost.	Quantities Taxed.	Value.	Duty.	TOTAL.	REMARKS.
	Goods paying Specific Duties—continued.			*Dolls.*	*Dolls. cts.*	*Dolls. cts.*	
33 Vict. c. 9 -	Spirits and Strong Waters, viz.:—	*Dolls. cts.*					
	Spirits and strong waters, not having been sweetened or mixed with any articles, so that the degree of strength thereof cannot be obtained by Sykes' hydrometer, for every gallon of the strength of proof by such hydrometer, and so in proportion for any greater or less strength than the strength of proof, and for every greater or less quantity than a gallon, viz.: Brandy, Geneva, alcohol, rum, gin, including old tom, tafin, whiskey, and unenumerated articles of like kind.	0 80 per gallon.					
	Brandy - - - - -	0 80 per gallon -	347,817	415,095	278,252 58		
	Gin - - - - - -	0 80 per gallon -	573,522	233,072	458,820 09		
	Rum - - - - - -	0 80 per gallon -	217,730	97,633	174,189 38		
	Whiskey - - - - -	0 80 per gallon -	141,290	113,222	113,035 60		
	Alcohol - - - - -	0 80 per gallon -	1,600	677	1,280 65		
33 Vict. c. 9 -	Other spirits, being sweetened or mixed so that the degree of strength cannot be ascertained as aforesaid, viz., rum-shrub, cordials, schiedam schnapps, bitters, and unenumerated articles of like kind, viz.:—						
	Cordials - - - - -	1 20 per gallon -	1,580	2,979	1,897 57		
	Cologne water, and perfumed spirits, not in flasks.	1 20 per gallon -	2,158	8,274	2,590 55		
	Cologne water and perfumed spirits, when in flasks or bottles, 30 of such flasks or bottles not containing more than one gallon for each flask or bottle.	0 04 per flask -	47,011	12,176	1,880 55		
33 Vict. c. 9 -	Unenumerated spirits, and strong waters.	1 20 per gallon -	290	659	348 95		
33 Vict. c. 9 -	Spirits and strong waters imported into Canada, mixed with any ingredient or ingredients; and although thereby coming under the denomination of proprietory medicines, tinctures, essences, extracts, or any other denomination, shall be nevertheless deemed "spirits or strong waters," and subject to duty as such, viz., tinctures, essences, and extracts.	1 20 per gallon -	189	648	226 58		
	TOTAL Specific Duties - -	- - -	- -	5,880,601	1,616,245 26	1,616,245 26	
	Goods paying Specific and ad valorem Duties:						
31 Vict. c. 44 -	Sugars:—						
	All sugar equal to, or above No. 9 Dutch standard, 25 per cent. *ad valorem*, and specific duty of one cent per lb.	25 per cent. *ad valorem*, and of 01 per lb.	55,850,047	2,782,778	1,254,197 08		
	Below No. 9, Dutch standard, 25 per cent. *ad valorem*, and a specific duty of ¾ of 1 cent per lb.	25 per cent. *ad valorem*, ¾ of 01 per lb.	15,171,614	630,092	271,321 00		
	Cane juice, syrup of sugar, or of sugar cane, syrup of molasses or of sorghum, milado, concentrated milado, or concentrated molasses, 25 per cent. *ad valorem*, and a specific duty of ⅝ of one cent per lb.	25 per cent. *ad valorem*, and ⅝ of 01 per lb.	13,916,691	463,357	202,818 51		
	Sugar candy, brown or white, and confectionery, 25 per cent. *ad valorem*, and a specific duty of one cent per lb.	25 per cent. *ad valorem*, and 01 per lb.	210,152	33,483	10,470 23		

CUSTOMS—*continued.*

Under what Authority.	ARTICLES.	Rate of Tax or Impost.	Quantities Taxed.	Value.	Duty.	TOTAL.	REMARKS.
	Goods paying Specific and ad valorem Duties—cont^{d}.			*Dolls.*	*Dolls. cts.*	*Dolls. cts.*	
31 Vict. c. 44 -	Ale, beer, and porter, 10 per cent. *ad valorem*, and a specific duty of 5 cents per gallon in cask, and 7 cents per gallon in bottles (five quart and 10 pint bottles to be held to contain a gallon):						
	In casks - - - - -	10 per cent. *ad valorem*, and 05 cents per gallon.	102,702	32,950	8,430 03		
	In bottles - - - - -	10 per cent. *ad valorem*, and 07 cents per gallon.	175,259	82,494	20,517 60		
31 Vict. c. 44 -	Tea, black, 15 per cent. *ad valorem*, and a specific duty of 3½ cents per lb.	15 per cent. *ad valorem*, and · 03½ cents per lb.	4,240,403	1,099,628	313,357 64	- -	Repealed from 1st July 1872.
33 Vict. c. 44 -	Tea, green, including Japan, 15 per cent. *ad valorem*, and a specific duty of 7 cents per lb.	15 per cent. *ad valorem*, and 07 cents per lb.	7,114,184	2,306,429	843,957 69	- -	Repealed from 1st July 1872.
33 Vict. c. 9 -	Tobacco, manufactured, except cigars, and including snuff, 12½ per cent. *ad valorem*, and a specific duty of 20 cents per lb.	12½ per cent. *ad valorem*, and 020 cents per lb.	124,684	35,709	29,401 06		
33 Vict. c. 9 -	Wines, of all kinds, including ginger, orange, lemon, gooseberry, strawberry, raspberry, elder, and currant wines, 25 per cent. *ad valorem*, and a specific duty of 10 cents per gallon (five quart and 10 pint bottles to be held to contain a gallon).	25 per cent. *ad valorem*, and 010 cents per gallon.	717,032	493,920	195,181 05		
33 Vict. c. 9 -	The following packages, that is to say—bottles, jars, demijohns, brandy casks, barrels, or packages in which spirituous liquors, wines, and malt liquors, are contained, and carboys containing sulphuric acid, and all goods not enumerated in any of the schedules to this Act, as charged with any other duty, and not declared to be free of duty, shall be charged with a duty of customs of 15 per centum *ad valorem*.						
	TOTAL Specific and *ad valorem* Duties - -	- - - - -	- -	7,960,840	3,149,651 89	3,149,651 89	

Under what Authority.	ARTICLES.	Quantities Taxed.	Value.	Duty.	TOTAL.	REMARKS.
	Goods paying 25 per Cent. ad valorem:		*Dolls.*	*Dolls. cts.*	*Dolls. cts.*	
31 Vict. c. 44 -	Mace and nutmegs - - - - -	85,213 lbs. - -	36,161	9,040 20		
31 Vict. c. 44 -	Spices, including cassia, cinnamon, ginger, pimento, and pepper, ground.	40,868 lbs. - -	4,179	1,044 64		
31 Vict. c. 44 -	Patent medicines, and medicinal preparations.	6,021 packages -	77,077	19,266 84		
31 Vict. c. 44 -	Playing cards - - - - - -	296 packages - -	13,013	3,252 20		
31 Vict. c. 44 -	Perfumery, not elsewhere specified - -	531 packages - -	12,154	3,038 59		
31 Vict. c. 44 -	Perfumed and fancy soaps - - -	- - - - -	12,389	3,097 34		
31 Vict. c. 44 -	Molasses, other than for refining purposes	45,265,563 lbs. -	819,260	204,817 50		
	TOTAL 25 per Cent. *ad valorem* - -	- - - - -	974,233	243,557 31	243,557 31	

CUSTOMS--*continued.*

Under what Authority.	ARTICLES.	Quantities Taxed.	Value.	Duty.	TOTAL.	REMARKS.
	Goods paying 15 per Cent. ad valorem :		*Dolls.*	*Dolls. cts.*	*Dolls. cts.*	
33 Vict. c. 9 -	Bagatelle boards and billiard tables -	160 packages - -	9,593	1,439 04		
	Blacking - - - - - - -	1,475 packages -	15,020	2,253 15		
	Brooms and brushes - - - -	1,560 packages -	26,954	4,043 14		
	Cabinet ware and furniture - - -	19,932 packages -	105,390	15,807 79		
	Candles and tapers - - - -	175,471 lbs. - -	31,273	4,691 08		
	Carpets and hearth rugs - - -	4,166 packages -	565,434	84,815 10		
	Carriages - - - - - - -	894 No. - -	52,304	7,843 68		
	Coach and harness furniture - - -	2,525 packages -	131,859	19,777 65		
	Chandeliers, girondoles, and gas fittings -	841 packages -	17,969	2,695 65		
	Chinaware, crockery, and earthenware -	47,722 packages -	513,792	77,070 49		
	Cider - - - - - - - -	12,328 gallons -	2,502	375 13		
	Clocks - - - - - - - -	6,618 packages -	80,146	12,021 72		
	Clothing and wearing apparel - -	2,698 packages -	432,373	64,856 75		
	Cocoa and chocolate - - - -	65,614 lbs. - -	15,771	2,365 78		
	Cordage - - - - - - -	214,016 lbs. - -	40,762	6,114 19		
	Corks - - - - - - - -	3,181 packages -	31,514	4,727 05		
	Cottons - - - - - - - -	51,876 packages -	9,077,198	1,361,579 45		
	Dried fruit and nuts of all kinds - -	- - - - -	720,908	108,136 01		
	Drugs not otherwise specified - -	23,220 packages -	387,095	58,064 80		
	Engravings and prints - - - -	800 packages - -	27,497	4,124 66		
	Fancy goods - - - - - - -	13,678 packages -	1,925,808	288,870 64		
	Foreign newspapers - - - -	6 packages - -	22	3 37		
	Fireworks - - - - - - -	718 packages - -	7,332	1,099 77		
	Flat wire, for crinolines, covered - -	241 packages - -	11,410	1,711 45		
	Gunpowder - - - - - - -	200,487 lbs. - -	36,469	5,470 21		
	Guns, rifles, and firearms of all kinds -	627 packages - -	31,814	4,771 56		
	Glass, plate, and silvered - - - -	1,376 packages -	48,922	7,338 21		
	Glass, window, stained, painted, coloured, or plain.	128,843 packages -	192,988	28,948 47		
	Glassware - - - - - - -	75,820 packages -	485,966	72,893 76		
	Hats, caps, and bonnets - - - -	11,269 packages -	731,329	109,699 88		
	Hosiery - - - - - - - -	1,100 packages -	284,741	42,711 52		
	Inks of all kinds, except printing inks -	1,142 packages -	10,060	1,508 57		
	Iron and Hardware :					
	Cutlery of all kinds - - - -	4,794 packages -	240,079	36,010 44		
	Japanned and planished tin, and Britannia metal ware.	1,299 packages -	19,743	2,961 29		
	Spades, shovels, axes, hoes, rakes, forks, edge tools, scythes, and snaths.	9,845 packages -	77,469	11,620 11		
	Spikes, nails, tacks, brads, and sprigs -	14,334 packages -	106,897	16,034 89		
	Stoves, and all other iron castings -	57,640 packages -	204,096	30,617 06		
	Other hardware - - - - -	118,705 packages -	2,461,877	369,282 00		
	Jewellery and watches - - - -	1,673 packages -	592,370	88,854 99		
	Lumber, sawn and plank, not being mahogany, rosewood, walnut, chesnut, and cherry, or not imported from B. N. A. Provinces.	- - - -	46,491	6,974 23		
	Leather - - - - - - - -	2,084 packages -	304,920	45,736 61		
	Sheep, calf, goat, and chamois skins dressed.	866 packages - -	137,683	20,652 30		
	Linen - - - - - - - -	5,564 packages -	930,757	139,613 16		
	Locomotive engines and railroad cars -	73 No. - - -	486,791	73,018 66		
	Maccaroni and vermicelli - - -	73,970 lbs. - -	3,965	594 69		
	Maps, charts, and atlases - - -	224 packages - -	6,445	966 72		
	Manufactures of marble, or imitation of marble, or other than rough slabs or blocks.	6,314 packages -	31,771	4,765 54		
	Manufactures of caoutchouc, india rubber or gutta percha.	2,647 packages -	147,169	22,075 63		
	Manufactures of cashmere - - -	1 package - -	179	26 85		
	Manufactures of fur, or of which fur is principal part.	1,042 packages -	182,778	27,415 91		
	Manufactures of hair or mohair - -	812 packages - -	51,406	7,711 03		
	Manufactures of papier mâché - -	13 packages - -	535	81 12		
	Manufactures of grass, osier, palm leaf, straw, whalebone, or willow, not elsewhere specified.	1,550 packages -	59,139	8,870 91		
	Manufactures of bone, shell, horn, pearl, and ivory.	88 packages - -	9,828	1,474 11		
	Manufactures of gold, silver, or electro plate, argentine, albata, and German silver, and plated and gilded ware of all kinds.	1,615 packages -	183,994	27,598 30		
	Manufactures of brass or copper - -	814 packages - -	43,162	6,474 37		

CUSTOMS—*continued.*

Under what Authority.	ARTICLES.	Quantities Taxed.	Value.	Duty.	TOTAL.	REMARKS.
	Goods paying 15 *per Cent. ad valorem*—continued.		*Dolls.*	*Dolls. cts.*	*Dolls. cts.*	
33 Vict. c. 9 -	Manufactures of leather, or imitation of leather.	1,786 packages -	265,674	39,850 24		
	Manufactures of leather boots and shoes	2,208 packages -	156,112	23,416 38		
	Manufactures of leather harness and saddlery.	660 packages - -	28,047	4,206 08		
	Manufactures of wood not elsewhere specified.	98,865 packages -	225,464	33,823 13		
	Mowing, reaping, and threshing machines	1,068 No. - -	56,684	8,503 55		
	Musical instruments - - - - -	2,666 packages -	384,634	57,694 46		
	Mustard - - - - - - -	367,576 lbs. - -	52,113	7,817 30		
	Machinery not elsewhere specified - -	10,726 packages -	508,895	76,330 24		
	Ochres, ground or calcined - - -	10 packages - -	95	14 25		
	Oil cloths - - - - - - -	4,536 packages -	110,069	16,509 87		
	Oils in any way rectified or prepared, not elsewhere specified.	688,083 gallons -	500,529	75,079 20		
	Oils of all kinds, crude, except whale oil, and others elsewhere specified.	6,826 gallons - -	5,209	781 42		
	Opium - - - - - - - -	10 packages - -	6,873	1,030 95		
	Packages - - - - - - -	- - -	287,721	43,157 96		
	Paints and colours - - - - -	35,978 packages -	313,604	47,039 83		
	Paper of all kinds - - - - -	12,962 packages -	231,712	34,757 10		
	Paper hangings - - - - -	5,445 packages -	167,040	25,056 81		
	Parasols and umbrellas - - - -	363 packages - -	87,975	13,195 93		
	Plaster of Paris and hydraulic cement, ground or calcined.	23,267 lbs. - -	31,289	4,692 74		
	Pickles and sauces - - - - -	14,856 packages -	99,593	14,938 36		
	Portable hand printing presses - -	30 packages - -	1,122	168 30		
	Preserved meats, poultry, fish, vegetables, &c.	20,333 packages -	141,429	21,213 72		
	Printed, lithographed, or copper plate bills, and advertising pamphlets.	2,084 packages -	37,246	5,586 17		
	Sails, ready made - - - - -	220 packages - -	9,527	1,428 94		
	Shawls - - - - - - - -	198 packages - -	56,008	8,401 30		
	Silks, satins, and velvets - - -	3,774 packages -	2,039,975	305,995 62		
	Silk twist, and silk and mohair twist -	2 packages - -	105	15 69		
	Spices, including ginger, pimento, and pepper unground.	814,190 lbs. - -	81,739	12,260 60		
	Spirits of turpentine - - - -	202,805 gallons -	81,318	12,196 82		
	Stationery - - - - - - -	7,536 packages -	401,301	60,195 57		
	Steam engines, other than locomotives -	5 No. - - -	4,354	653 10		
	Small wares - - - - - - -	13,596 packages -	1,917,837	287,676 58		
	Tobacco pipes - - - - - -	3,404 packages -	23,966	3,594 61		
	Toys - - - - - - - - -	735 packages - -	27,021	4,053 24		
	Varnish, other than bright or black -	- - -	56,106	8,413 69		
	Woollens - - - - - - - -	34,678 packages -	9,716,516	1,457,476 26		
	Unenumerated articles - - - -	- - -	500,211	75,042 55		
	TOTAL 15 per Cent. *ad valorem* - -	- - -	40,996,867	6,149,529 20	6,149,529 20	
	Goods paying 10 *per Cent. ad valorem :*					
31 Vict. c. 44 -	Sole and upper leather - - - -	3,264 packages -	376,773	37,676 78		
33 Vict. c. 9 -	Horses - - - - - - - -	293 No. - - -	16,340	1,633 91		
	Horned cattle - - - - - -	145 No. - - -	2,449	244 90		
	Swine - - - - - - - - -	855 No. - - -	10,995	1,099 42		
	Sheep - - - - - - - - -	86 No. - - -	566	56 56		
	Other animals - - - - - -	- - -	752	75 21		
	Fruits of all kinds, green - - -	- - -	209,389	20,941 29		
	Hay, straw, and bran - - - -	- - -	2,352	235 17		
	Seeds, other than cereals - - -	5,599 packages -	87,025	8,702 19		
	Vegetables - - - - - - -	- - -	44,401	4,440 30		
	Trees, plants, and shrubs - - - -	2,804 packages -	45,678	4,567 71		
	TOTAL 10 per Cent. *ad valorem* - -	- - -	796,720	79,673 44	79,673 44	

CUSTOMS—*continued.*

Under what Authority.	ARTICLES.	Quantities Taxed.	Value.	Duty.	TOTAL.	REMARKS.
	Goods paying 5 per Cent. ad valorem:		*Dolls.*	*Dolls. cts.*	*Dolls. cts.*	
31 Vict. c. 44 -	Printed books, periodicals, and pamphlets	14,845 packages -	701,194	35,061 91		
	Iron - - - - - - - - -	- - -	2,449,369	122,468 56		
	Type - - - - - - - - -	1,563 packages -	48,201	2,410 09		
	TOTAL 5 per Cent. *ad valorem* - -	- - -	3,198,764	159,940 56	159,940 56	
	TOTAL Duties on Imports - - -	- - -	- -	- -	11,398,597 66	
	Add—Increase to duties of 5 per cent. thereon imposed by Act 33 Vict. c. 9, s. 11, taking effect from the 12th May 1870, and subsequently repealed from 16th March 1871, by 34 Vict. c. 10, s. 1 - - -	- - -	- -	- -	392,670 16	
					11,791,267 82	

EXPORTS.

Under what Authority.	ARTICLES.	Total Quantities.	Total Value.	TOTAL.	Duty.	REMARKS.
	Produce of the Forest:		*Dolls.*	*Dolls.*	*Dolls. cts.*	
31 Vict. c. 44 -	Shingle bolts (dutiable) - - - - -	15,667 cords - -	54,472	- -	15,667 33	1 dollar per cord of 128 cubic ft.
31 Vict. c. 44 -	Stave bolts (dutiable) - - - - - -	2,098 cords - -	5,954	- -	2,097 90	
31 Vict. c. 44 -	Oak logs (dutiable) - - - - - -	1,173 per M. feet -	12,173	- -	2,345 18	2 dollars per M. ft.
31 Vict. c. 44 -	Spruce logs (dutiable) - - - - -	2,751 per M. feet -	11,666	- -	2,751 05	1 dollar per M. ft.
31 Vict. c. 44 -	Pine logs dutiable - - - - - -	13,204 per M. feet -	60,626	- -	13,204 44	1 dollar per M. ft.

SUMMARY.

DESCRIPTION.		Total Value.	Duty.	REMARKS.
		Dolls.	*Dolls. cts.*	
Imports - - - - - - - - - - - - - - - - - -		86,947,482	11,807,589 85	
Exports - - - - - - - - - - - - - - - - - -		74,173,618	36,065 90	
		161,121,100	11,843,655 75	
Sundry Receipts:				
Coasting licenses, entrance and clearance fees - - - - - - - - - - - -		- - -	8,174 69	
Bonding and examining warehouse fees - - - - - - - - - - - -		- - -	16,941 46	
Sundries (sales of stores, &c.) - - - - - - - - - - - -		- - -	1,781 16	
			11,870,553 06	
Less—Refunds, drawbacks, &c. - - - - - - - - - - - -		- - -	53,202 61	
			11,817,350 45	
	Dolls. cts.			
Add—Balances due by collectors, 30th June 1870 - -	106,727 23			
Less—Balances due by collectors, 30th June 1871 - -	82,973 12			
		- - -	23,754 11	
TOTAL Deposited with the Receiver General - - -			11,841,104 56	

EXCISE.

Authority.	Description.	Rate.	Quantity.	Duty.	Total Duty.	Refunds.	Remarks.
	Spirits.	*Doll. cts.*	*Gallons.*	*Doll. cts.*	*Doll. cts.*	*Doll. cts.*	
31 Vict. c. 8 - 60 *c.*	Ex warehouse - -	0 63 per gallon -	2,298,612 74	1,448,245 03			
Increased by	Ditto - -	0 65 per gallon -	140 22	91 14			
31 Vict. c. 50 - 3	Ex manufactory - -	0 63 per gallon -	1,918,977 76	1,208,955 54			
	Ditto - - - -	0 65 per gallon -	1,510 45	981 78			
63	23 distillers' licenses -	250 0 each - -	- -	5,750 00			
					2,664,023 49	420 67	
	Malt.		*Lbs.*				
31 Vict. c. 8 - -	Ex warehouse - -	0 1 per lb. -	27,671,497	276,714 97			
	108 license fees - -	- Variable - -	- -	18,050 00			
					294,764 97	2,290 07	
	Malt Liquor.		*Gallons.*				
31 Vict. c. 8 - -	Ex manufactory - -	0 3½ per gallon -	65,453	2,127 22			
	149 licenses - - -	50 0 each - -	- -	7,250 00			
					9,377 22	71 00	
	Tobacco.		*Lbs.*				
33 Vict. c. 9 - -	Ex warehouse - -	0 10 per lb. -	323	32 30			
	Ditto - - - -	0 15 per lb. -	5,362,388½	804,358 57			
	Ex manufactory - -	0 15 per lb. -	808,340½	121,251 08			
	Ditto - - - -	0 7 per lb. -	46,058	3,224 06			
	Ditto - - - -	0 5 per lb. -	733	36 65			
	Cigars.						
33 Vict. c. 9 - -	Ex manufactory - -	0 30 per lb. -	118,661	35,598 30	- -	- -	Cigars are estimated at 10 lbs. per mille.
	Ex warehouse - - -	0 30 per lb. -	7,181	2,154 30			
	Snuff.						
33 Vict. c. 9 - -	Ex manufactory - -	0 15 per lb. -	25,635	3,845 25			
	Ex warehouse - -	0 15 per lb. -	58,520	8,778 00			
	Raw Leaf Tobacco.						
33 Vict. c. 9 - -	Ex warehouse:						
	Foreign - - -	0 15 per cent. -	323,145	48,471 76			
	Canadian - - -	0 7 per cent. -	45,626½	3,193 85			
	99 licenses - - -	50 0 each - -	- -	4,850 00			
					1,035,794 12	1,696 78	
	Petroleum Duty and Inspection Fees.						
31 Vict. c. 50 - -	Ex manufactory - -	0 5 per gallon -	2,983,270	149,163 50			
	Inspection fees - -	0 20 per package	111,337	22,367 40			
	Ditto - - - -	0 1 per gallon -	18,128	181 28			
	52 licenses - - -	50 0 each - -	- -	2,525 00			
	Ex warehouse - - -	0 5 per gallon -	1,462,439	73,121 95			
					247,359 13	297 79	
	Bonded Manufactures.		*Gallons.*				
33 Vict. c. 9 - -	Vinegar - - - -	0 3 per gallon -	586,079				
31 Vict. c. 8 - -	Burning fluid - - -	1 20 per gallon -	3,176				
33 Vict. c. 9 - -	Methylated spirits - -	0 12 per gallon -	40,418				
31 Vict. c. 8 - -	Ginger wine - - -	0 10 per gallon and 25 *cts. ad val.*	970	20,288 98			
31 Vict. c. 8 - -	Syrups - - - -	0 1 per gallon and 25 *cts. ad val.*	199				
31 Vict. c. 8 - -	Domestic liquors - -	0 80 per gallon -	9,057				
31 Vict. c. 8 - -	11 licenses - - -	50 0 each - -	- -	500 00			
					20,788 98	371 53	
					4,272,107 91	5,147 84	

Sundry receipts, seals, locks, &c. &c. - - - - - - - - - - - - - - - -		5,014 70
		4,277,122 61
Less—Refunds -		5,147 84
		4,271,974 77
Add—Differences of currency, Nova Scotia, between the amounts received, and the calculations made by the Excise Department.		24 45
		4,271,999 22
	Doll. cts.	
Add—Balance due by collectors, 30th June 1870 - - - - - - - - - -	85,833 09	
Less—Balance due by collectors, 30th June 1871 - - - - - - - - - -	61,887 59	
		23,945 50
Deposited with the Receiver General - - - - - - - - - - - - - - - -		4,295,944 72

N.B.—Licenses are in some cases charged for broken periods.

RECAPITULATION OF PUBLIC WORKS REVENUE.

	Doll. *cts.*
Canals	472,675 63
Slides and Booms	95,541 81
Hydraulic Rents	24,712 32
Minor Public Works	9,186 85
Nova Scotia Railway	292,667 27
New Brunswick Railways	251,456 37
	1,146,240 25

N.B.—The Governor in Council has authority to impose tolls for use of public works, under authority of Act 31 Vict. c. 12, s. 58.

RECAPITULATION OF REVENUE, 1870-71.

SERVICE.	Gross Revenue.	Net Revenue, after deducting Drawbacks, &c.	Cost of Collection.	REMARKS.
	Doll. *cts.*	*Doll.* *cts.*	*Doll.* *cts.*	
Customs	11,894,307 17	11,841,104 56	500,441 49	
Excise	4,301,092 56	4,295,944 72	129,563 56	
Public Works	1,146,576 74	1,146,240 25	831,071 72	Including maintenance and repairs.
Post Office	612,630 67	612,630 67	815,470 59	
Bill Stamps	192,400 25	183,319 42	- -	Collected by Excise officers.
Casual	19,737 18	19,737 18		
Ordnance Lands	95,216 35	95,216 35		
Interest on Investments	554,383 72	554,383 72		
Bank Imposts	39,588 96	39,588 96		
Fines, Forfeitures, and Seizures	49,712 34	47,877 28		
Premiums, Discounts, and Exchange	92,019 59	92,019 59		
Sick Mariners' Fund	30,409 41	30,409 41	- -	Collected by Customs officers.
Harbour Police	21,345 28	21,345 28	- -	Collected by Customs officers.
Culling Timber	61,197 08	61,197 08	62,130 22	
Harbour Improvements	3,248 30	3,248 30	- -	Collected by Customs officers.
Penitentiaries	124,817 85	124,817 85		
Fisheries	12,408 97	12,408 97		
Militia	7,393 58	7,393 58		
Superannuation	49,470 59	49,470 59		
Passenger Duty	36,750 65	36,750 65	- -	Collected by Customs officers.
Steamboat Inspection	10,692 13	10,692 13	- -	Collected by Customs officers.
Sundry Special Receipts	49,764 27	49,764 27		
	19,405,163 64	19,335,560 81		

FURTHER RETURN.

RETURN of the RATES of all TAXES and IMPOSTS from which the REVENUES of the several COLONIES of the BRITISH EMPIRE were raised, together with the Gross Amount yielded by each Tax or Impost, showing the Total Gross Revenue for each Colony in the Year 1868, or the last Financial Year for which the same can be obtained; &c.

(Further as relates to the DOMINION of CANADA, in continuation of House of Commons Papers, No. 247, of 1872, and No. 354, of 1874.)

(*Mr. Brogden.*)

Ordered, by The House of Commons, *to be Printed,*
12 *February* 1875.

Under 1 *oz.*

CORRESPONDENCE

RESPECTING THE

CANADIAN PACIFIC RAILWAY ACT

SO FAR AS REGARDS

BRITISH COLUMBIA.

Presented to both Houses of Parliament by Command of Her Majesty.
April 1875.

LONDON:
PRINTED BY HARRISON AND SONS.

TABLE OF CONTENTS.

No. in Series.	From or to whom.	Date.	Subject.	Page
1	The Earl of Dufferin ..	Dec. 26, 1873 (Rec. Jan. 8, 1874)	Non-fulfilment on the part of the Dominion Government of the XIth Article of the Terms of the Union with British Columbia in respect to the construction of the Canadian Pacific Railway ..	1
2	To the Earl of Dufferin ..	Jan. 15, 1874	Acknowledging receipt of despatch of the 26th ultimo	3
3	The Earl of Dufferin ..	May 15, 1874 (Rec. May 28)	Transmitting newspaper report on Mr. Mackenzie's speech relating to the construction of the Pacific Railroad, together with an article from the Toronto "Globe," explanatory of the Government project	3
4	The Earl of Dufferin ..	May 15, 1874 (Rec. May 28)	Inclosing article from the Toronto "Mail," criticizing the Government railway scheme . ..	21
5	Lieutenant-Governor Trutch	June 11, 1874 (Rec. June 12) (Telegraphic)	Appeal by British Columbia against the breach by Canada of the terms of union relating to the construction of the Pacific Railway	23
6	To the Earl of Dufferin ..	June 18, 1874	Respecting the settlement of the difficulties between Canada and British Columbia by arbitration ..	23
7	Lieut.-Governor Trutch ..	June 11, 1874 (Rec. July 22)	Recording telegram of 11th June, stating "Ministry desire to notify you that Delegate proceeds immediately to London to present appeal of British Columbia against non-fulfilment of terms of Union"	24
8	The Earl of Dufferin ..	July 9, 1874 (Rec. July 22)	Respecting the dispute between the Dominion Government and British Columbia	25
9	The Earl of Dufferin ..	July 9, 1874 (Rec. July 22)	Erection of a line of telegraph along the general route of the Canadian Pacific Railway.. ..	27
10	Mr. Walkem	July 28, 1874	Requesting that Lord Carnarvon will grant him an interview for the purpose of discussing the affairs of British Columbia	39
11	To Mr. Walkem . ..	July 29, 1874	Informing him of the day on which Lord Carnarvon will be prepared to see him	39
12	Mr. Walkem	July 31, 1874	Submitting petition to the Queen from the Committee of the Executive Council of the Province of British Columbia	39
13	The Earl of Dufferin ..	July 18, 1874 (Rec. Aug. 4)	Stating that Mr. Walkem has been deputed to lay before Lord Carnarvon the claims of British Columbia under the XIth Clause of the Terms of Union with the Dominion of Canada	63
14	The Earl of Dufferin ..	July 22, 1874 (Rec. Aug. 4)	Forwarding copies of an Act to provide for the construction of the Canadian Pacific Railway ..	63
15	Lieut.-Governor Trutch ..	Aug. 3, 1874 (Rec. Aug. 5) (Telegraphic)	Accepting, on behalf of British Columbia, Lord Carnarvon's offer to arbitrate	69
16	To Lieutenant-Governor Trutch	Aug. 5, 1874 (Telegraphic)	Acknowledging receipt of telegram of 3rd instant ..	69
17	The Earl of Dufferin ..	July 31, 1874 (Rec. Aug. 12)	Transmitting petition from the inhabitants of Victoria, British Columbia, respecting the non-fulfilment by Canada of the terms of Union ..	70
18	The Earl of Dufferin ..	July 31, 1874	Inclosing an approved Order in Council, setting forth the views of his Government on the subject of the pending dispute with British Columbia ..	72

No. in Series.	From or to whom.	Date.	Subject.	Page
19	To Mr. Walkem . ..	Aug. 15, 1874	Acknowledging receipt of Petition to the Queen from the Committee of the Executive Council of British Columbia, and stating that Lord Carnarvon cannot at present decide upon the course to be pursued	74
20	To the Earl of Dufferin ..	Aug. 16, 1874	Stating that Mr. Walkem has been deputed to represent the claims of the Province of British Columbia, on account of the delay in the construction of the Pacific Railway, and informing him of the proposals made by Mr. Edgar on behalf of the Canadian Government to British Columbia ..	74
21	To the Earl of Dufferin ..	Aug. 29, 1874	Acknowledging the receipt of Mr. Sandford Fleming's report, and expressing satisfaction at the results obtained by the survey	77
22	Lieut.-Governor Trutch ..	Aug. 3, 1874 (Rec. Sept. 1)	Accepting, on behalf of the Government of British Columbia, Lord Carnarvon's offer to arbitrate on the subject of the dispute with Canada relating to the Railway question	77
23	To the Earl of Dufferin ..	Sept. 4, 1874	Stating that the Petition of the inhabitants of Victoria, British Columbia, respecting the non-fulfilment by Canada of the terms of the Union has been laid before Her Majesty, and that it will be carefully considered	78
24	Mr. Walkem	Sept. 10, 1874	Requesting a decision upon the petition to Her Majesty of the Committee of the Executive Council of British Columbia	79
25	To Mr. Walkem . ..	Sept. 14, 1874	Stating that Lord Carnarvon is not at present in a position to decide upon the petition of the Executive Council of British Columbia	79
26	The Earl of Dufferin ..	Sept. 18, 1874 (Rec. Sept. 30)	Transmitting Report of the Committee of Council of Canada, upon Lord Carnarvon's despatch relating to the complaints of the British Columbia Government in regard to the Pacific Railway ..	79
27	Mr. Walkem	Oct. 31, 1874	Recapitulating the main points at issue between Canada and British Columbia, respecting the breach by the former of the Railway Agreement in the terms of the Union	85
28	To the Earl of Dufferin ..	Nov. 17, 1874	Announcing the conclusions arrived at for the settlement of the controversy between Canada and British Columbia, respecting the Pacific Railway.	92
29	To Mr. Walkem . ..	Nov. 17, 1874	Transmitting copy of despatch to Lord Dufferin of the 17th instant	94
30	To the Earl of Dufferin ..	Jan. 1, 1875	Stating that Her Majesty will not be advised to exercise her power of disallowance with respect to the Acts Nos. 2 and 14	94
31	The Earl of Dufferin ..	Dec. 18, 1874 (Rec. Dec. 30)	Settlement of differences between the Dominion Government and British Columbia	95
32	To the Earl of Dufferin ..	Jan. 4, 1875	Respecting the settlement of the differences between the Dominion Government and British Columbia.	96

APPENDIX.

1. Terms of Union between Canada and British Columbia 97
2. The Canada (Public Works) Loan Act, 36 and 37 Vict., c. 45 98

Correspondence respecting the Canadian Pacific Railway Act so far as regards British Columbia

No. 1.

The Earl of Dufferin to the Earl of Kimberley.—(*Received January* 8, 1874.)

My Lord, *Government House, Ottawa, December* 26, 1873.

I HAVE the honour to inclose, for your information, a copy of a despatch from the Lieutenant-Governor of British Columbia to the Secretary of State of Canada, forwarding a copy of a Minute of his Executive Council, referring to the non-fulfilment on the part of the Government of the Dominion of the XIth Article of the Terms of the Union with that Province in respect to the construction of the Canadian Pacific Railway.

I also beg to transmit a copy of a Report of a Committee of the Privy Council of the Dominion on the above-mentioned despatch, stating that my Government is giving its most earnest consideration to the project for the construction of a railway to the Pacific.

I have, &c.
(Signed) DUFFERIN.

Inclosure 1 in No. 1.

Sir, *Government House, November* 24, 1873.

I HAVE the honour to inclose herewith a further Minute of my Executive Council referring to the non-fulfilment by the Dominion Government of the XIth Article of the Terms of the Union of this Province with Canada.

In accordance with the advice of my Ministers, expressed in this Minute, I beg you to be pleased to lay this despatch and its inclosure before his Excellency the Governor-General, and to be good enough to bring to his Excellency's attention the previous Minutes of my Executive Council on the same subject, which were forwarded for his consideration in my despatches of the 26th July last, the latter of which, conveying a protest from this Government on the failure of the Dominion Government to secure the commencement, within two years from the date of Union, of the construction of a railroad from the Pacific towards the Rocky Mountains, as provided in the XIth Article of the Terms of Union, as yet unanswered; and to move his Excellency to communicate to this Government, in whatever manner he may deem advisable, in time to meet the requirement of the desire indicated by my Ministers, the course intended to be taken by the Dominion Government in fulfilment of the XIth Article of the Terms of Union of this Province with Canada.

I have, &c.
(Signed) JOSEPH W. TRUTCH.

The Hon. the Secretary of State for Canada.

Sub-Inclosure in Inclosure 1.

Report of a Committee of the Honourable the Privy Council, approved by his Excellency the Governor-General on the 22*nd of December*, 1873.

THE Committee have had under consideration the despatch dated 24th November, 1873, from the Lieutenant-Governor of British Columbia, inclosing a further Minute of his Executive Council referring to the non-fulfilment by the Dominion Government of the XIth Article of the Terms of Union of this Province

with Canada, and stating, that in accordance with the advice of his Ministers, expressed in this Minute, he requests that this despatch and its inclosure be laid before your Excellency, together with the previous Minutes of his Executive Council on the same subject, which were forwarded for consideration in his despatches of the 26th of July last, the latter of which, conveying a protest from that Government on the failure of the Dominion Government to secure the commencement, within two years from the date of Union, of the construction of a railroad from the Pacific towards the Rocky Mountains, as provided in the XIth Article of the Terms of Union, he states, is yet unanswered, and requesting your Excellency to communicate to that Government, in whatever manner may be deemed advisable, in time to meet the requirements of the desire indicated by his Ministers, the course intended to be taken by the Dominion Government in fulfilment of the XIth Article of the Terms of Union of that Province with Canada.

The Committee of Council respectfully recommend that the Lieutenant-Governor of British Columbia be informed that this Government is giving its most earnest consideration to the project for the construction of the Pacific Railway, an outline of which was given in the speech delivered by Mr. Mackenzie at Sarnia on the 25th of November: a scheme which they believe will be acceptable to the whole Dominion, including British Columbia, and that they hope to be able within a short time to communicate more definitely with that Province on the subject.

Certified,
(Signed) W. A. HIMSWORTH,
Clerk, Privy Council.

Inclosure.

Report of a Committee of the Honourable the Executive Council, approved by his Excellency the Lieutenant-Governor on the 22nd day of November, 1873.

THE Committee of Council having had under consideration a Memorandum from the Honourable the Provincial Secretary, dated 19th November, 1873, setting forth the facts: That the Government of British Columbia has protested against the non-fulfilment of the XIth Article of the Terms of Union; that, beyond the acknowledgment of receipt, no reply has been made by the Dominion Government to the despatch conveying that protest:

That the Government of British Columbia, looking at the actual position of affairs, felt compelled to wait the action of the Parliament of Canada, expected shortly to meet, and which did meet on the 23rd October last past:

That the Parliament of Canada has been prorogued, not to meet until February next, without making provision for the construction of the Pacific Railway:

That the Legislative Assembly of this Province stands called to meet at Victoria on the 18th day of December next; and that the non-fulfilment by the Dominion Government of the Terms of Union has caused a strong feeling of anxiety and discouragement to exist throughout the Province. The Committee advise your Honour to ask the Dominion Government, through the proper channel, for a decided expression of its policy with regard to the fulfilment of the XIth Article of the Terms of Union, in order that the information may be given to the Legislature at the opening of the coming Session, and to request that the decision arrived at be communicated to your Honour by telegram at the earliest moment possible. And the Committee respectfully suggest that if the present report be sanctioned, your Honour will be pleased to forward the same to his Excellency the Governor-General, and also to draw his attention to the Minutes of Council, each bearing date the 25th July last on the same subject, one being a protest against the breach of Article XI, and the other a denial of the right of the Dominion Government to a conveyance, or reserve, of any of the public lands for railway purposes, until the line of railway should be defined.

Certified,
(Signed) W. J. ARMSTRONG,
Clerk, Executive Council.

No. 2.

The Earl of Kimberley to the Earl of Dufferin.

My Lord, *Downing Street, January* 15, 1874.

I HAVE the honour to acknowledge the receipt of your despatch of the 26th of December,* inclosing a copy of a despatch from the Lieutenant-Governor of British Columbia, with a copy of a Minute of his Executive Council, referring to the non-fulfilment on the part of the Canadian Government of the XIth Article of the Terms of Union between that Province and Canada in respect to the construction of the Pacific Railway.

I have, &c.
(Signed) KIMBERLEY.

No. 3.

The Earl of Dufferin to the Earl of Carnarvon.—(Received May 28.)

My Lord, *Ottawa, May* 15, 1874.

I HAVE the honour to inclose, for your Lordship's information, a newspaper report of the speech delivered by Mr. Mackenzie, on the 12th instant, when introducing resolutions for a Bill to provide for the construction of the Pacific Railroad, together with a summary of this speech, and an article from the "Globe" newspaper of the 12th instant, explanatory of the Government project.

I have, &c.
(Signed) DUFFERIN.

Inclosure 1 in No. 3.

Extract from the Toronto "Globe" of May 12, 1874.

THE CANADIAN PACIFIC.—THREE years ago, when, by the compact with British Columbia, the Dominion of Canada engaged within ten years to construct a railroad from Lake Nipissing, in Ontario, to the Pacific Ocean, the Government of the day possessed absolutely no information as to the nature of the vast undertaking to which they pledged the good faith and resources of the country. The whole of the intervening period since that rash bargain was made has been occupied in ascertaining, at an enormous cost, what the commonest prudence should have suggested to be the first proceeding. Even yet, we believe, the information obtained is not complete, although, probably, sufficient may be known to justify a fair estimate of the difficulties to be encountered and the stupendous character of the task to be performed. In the end we shall probably gain by the delay. The question to be settled was not merely by what route it might be practicable to span the continent of British North America. The construction of the road will be a work of years, but that period will be as nothing in the lifetime of a nation; whilst the method of constructing and operating this gigantic enterprise in the manner most likely to ensure success, and to secure the largest possible benefits at the lowest possible cost is a matter that may affect the welfare of the Dominion for all future time. Prudent calculations and cautious movements to-day may count for millions in the next half century. We shall doubtless be able to judge, when the reports of the various surveys, so far as they are completed, are before the public, how far the investigations that have been going forward since 1871 have accomplished the desired results. In the meantime we shall give an outline of such general information as we have been able to collect on the subject.

The readers of the "Globe" are already informed of the main features of the scheme about to be submitted to Parliament. The outlines of that measure indicate, to some extent, the conclusions of those on whose explorations it is founded. The area which has been subject to survey can hardly cover less than 1,000,000 square miles. Its extreme limits embrace 54 degrees of longitude and 10 of latitude, or, reduced to miles, represent 2,700 miles in length, and from 300 to 500 miles in breadth. A large proportion of this was, three years ago, an unknown wilderness. If a comparison of the extent of what we will call the Canadian Pacific territory were sought in the eastern hemisphere

* No. 1

we should find its counterpart in a region stretching from the coast of France across Belgium, Holland, Germany, Prussia, and Russia, to the Ural Mountains in Asia, and covering a considerable portion of these countries. The botanical and geographical characteristics of this region naturally divide it into three great sections.

Commencing with the most westerly, which is partially wooded and almost entirely mountainous, we find, perhaps, the most difficult and costly portion of the work to be accomplished. Two great mountain ranges bar the pathway of the surveyor who desires to run a line from the Saskatchewan to the Pacific; first, the Rocky Mountains proper, and next, as the coast is approached, the Cascade range. The former, however, present a series of elevated plateaux, with passes that admit of comparatively easy access. The highest of these passes are from 6,000 to 7,000 feet above the sea level, the lowest, 2,000 feet. Numerous independent ranges, known as the Cariboo, Selkirk, and Gold ranges, form a sort of advanced guard to the Rocky Mountains on the western slope. The Cascades rise abruptly from the sea level, looking bold, defiant, and all but insurmountable. The average height of many is from 5,000 to 8,000 feet. It will tax all the skill of the engineer to reduce the gradients in this district to working limits. Between the Rocky and Cascade Mountains lies an elevated plateau, intersected by rivers running through deep channels and threading their way around mountains that here and there lie in their route.

With the central or prairie section recent travellers have now made us better acquainted. It extends from a short distance east of the Rocky Mountains to the Lake of the Woods, and may be described as a vast triangle of an area of 300,000,000 acres in extent, its apex lying at the westward, and its base at its eastern extremity. Its most striking peculiarities are its great lakes and magnificent rivers, forming altogether a grand system of water communication, stretching, with few interruptions, for nearly its whole length. The rivers are described as being seldom obstructed by falls or dangerous rapids, and presenting, as a rule, a uniform descent. Captain Butler's work has lately familiarized us with many of the features of the northern part of this region, which is, to a large extent, rich and fertile, with a fair allowance of woodland. Its southern portion, however, is in many parts barren and uninviting.

The settlement of this country in advance of the railway would solve many difficult problems with regard to the construction and final success of the Canadian Pacific road. For accomplishing this object, Nature has fortunately supplied most powerful auxiliaries in the magnificent lakes and rivers by which it is intersected. Lakes Winnipeg, Winnipegosis, and Manitoba form a chain of water communication, broken only by comparatively unimportant interruptions, far into the interior of the country. The Saskatchewan, too, may, with a moderate expenditure in engineering improvements, be rendered navigable for steamers of light draught through the summer months. Its chief obstacles are the Grand Rapids, at the point where it flows into Lake Winnipeg, which a portage railway of three miles in length would overcome. Next in importance to these rapids are Cole's Falls or Rapids, close to the confluence of the two branches which ultimately form the main stream. They are about twelve miles in length, and have a fall of 12 feet. There are one or two smaller rapids, and the channel would require some dredging and the removal of the huge boulders which have been in times past deposited in the bed of the river, in order to make navigation safe and easy. For steamers or railway purposes, however, this country, rich as it is in many respects, would afford no adequate supply of fuel. But here, again, the coal beds already discovered will come to our aid, although it is quite possible that coal might have to be floated down the river to the depots provided from the seams already discovered above Fort Edmonston. In the prairie region, too, a natural supply of pure water is often found to be scarce, and the geological survey will no doubt direct its attention by boring to ascertain how this necessity may be supplied.

The next great span of country lying before us is the section between the point at which the prairie region ceases and the Nipissing terminus of the projected road. The Reports already published have told of the great difficulty experienced at the outset in discovering a suitable route for a railway through this tangled woodland wilderness. We have reason to believe, however, that perseverance has already accomplished a good deal in this direction, and that a route will be found free from any very appalling obstacles to the construction of the railway. To all who have reflected upon this matter two main objects to be attained will have presented themselves. First, it would be, of course, desirable to follow as nearly as possible an air line from Nipissing to Fort Garry; and, secondly, it would be incumbent on the engineers to approach as nearly as possible to the head of the lake navigation communicating with the St. Lawrence. Everyone is now acquainted with the rugged and uneven character of the country immediately north

and west of Lake Superior. To the rear, however, of the rocky region it is alleged the land is tolerably level, and free from serious obstructions to the progress of the railroad.

Having thus, in very general terms, described the character of the country to be traversed, we may forecast, so far as the materials to hand will allow, the probable route of the Canadian Pacific. That Vancouver Island must ultimately have its railroad terminating at the magnificent Harbour of Esquimalt is tolerably certain. The distance to Esquimalt from Seymour Narrows, where the main line, if its terminus were located in Vancouver Island, might be expected to cross, is about 160 miles, and, except for some 25 miles, a route might be found admitting of the tolerably easy construction of the railroad through a country partly agricultural and rich in coal beds and other mineral deposits. On the other hand, the task of connecting Vancouver with the mainland would be very costly, and require engineering works of great magnitude. A steam ferry might supply for a time the connecting link. A railroad crossing the strait would involve the construction of several bridges, with a clear span varying from 100 to 150 feet each, and the intervening islands would impose a heavy amount of rock excavation and tunnelling on the constructors. These circumstances will have to be regarded in considering the propriety of immediate operations in the island itself. Public policy might demand that they should be grappled with, but the legal obligations of the country towards British Columbia do not actually compel the Dominion to enter upon this undertaking. The Pacific coast can be reached in the terms of the contract with British Columbia by fixing the terminus on the mainland; and without in the least, therefore, proposing to discourage the idea that Vancouver Island is to enjoy the full benefit of this great national enterprise, it may be well, in tracing prospectively the route of the main road, to eliminate the Vancouver Island branch or continuation from our calculations.

Starting eastward from Waddington Harbour, on Bute Inlet, the first 44 miles will present, perhaps, the most repellant features of the undertaking, although the gravest difficulties of this section are to be met with in a distance of some 15 miles. It is probable that the Cascades will be crossed by the great canon of the Homathco River at an altitude of 2,285 feet above the sea level, the ascent being abrupt, and severely taxing the skill of the engineers to reduce the gradients to working proportions that will be equal to the duty of surmounting them. A glance at the map will indicate as the probable route of the railway, after leaving the canon, a line running by way of Lake Latla across the Chilicotin Plains to the Fraser, near Soda Creek; thence by Lac de la Hache to the valley of the Thompson, near Clearwater, and then following the course of the Fraser to Yellow-head Pass, which is crossed at an altitude of 3,760 feet. Descending the eastern slopes of the Rocky Mountains the road would, probably by way of the Caledonian and Jasper valleys, finally strike the plains of the north arm of the Saskatchewan. Those who are most familiar with the route between the head of the Homathco canon and Fort Edmonton, on the eastern side of the mountains, speak of it as presenting no very extraordinary difficulties. The distance is 162 miles, and the greatest depression of the ground is said to be 800 feet below the head of the canon, and Yellow-head Pass only 1,500 feet above it. But it must be remembered that the authorities on these points are mostly engineers or surveyors, or persons who speak and write under inspiration, and it is the natural tendency of men who are daily engaged in the task of overcoming obstacles to make light of them. Captain Butler and others have made the public familiar with the more northerly pass, by which the Peace River flows, and either this or Smoky River Pass would probably be as eligible in many respects as Yellow-head Pass as a means of crossing the Rocky Mountains. We assume, however, that the route selected will be the one by which the Cascades can be surmounted most easily. As was lately announced, explorations are going forward, as to the merits of a route through British Columbia in the direction of the River Skeena. Enough has been said to show that the whole of this grand section is sufficiently beset with obstacles and difficulties to make the most exhaustive inquiry necessary before any one route is finally determined upon.

The prairie section of the route is one that recent travel and explorations have very generally familiarized us with. It will probably present the fewest obstacles to the construction of the road; but the first report issued of the progress of the surveys, if we are not mistaken, led to the conclusion that heavy bridging and some other works of considerable magnitude would have to be undertaken in this region. Meantime the announcements of the Premier indicate that by the utilization of the water communications the building of the railway west of Fort Garry and east of the Rocky Mountains may be for the moment deferred.

In considering the third and last grand section we have to bear two or three important matters in mind. It is desired ultimately to build a through line, as direct as practicable, from the south o ;Lake Nipissing to Fort Garry. It is important that the line should approach as nearly as possible to the waters of Lake Superior. It is necessary that the readiest possible means should be found of connecting the oldest portions of Canada with the Red River Settlements. It was originally supposed that the road should have to run to the northward of Lake Nepigon, a branch line connecting Thunder Bay with the main road. From information that has reached us we have reason to believe that these several problems may be solved in the following manner :—It is said that a practicable route has been discovered through to the rocky region at the head of Lake Superior, the road approaching the lake as near as Lake Helen, which is an expansion of the Nepigon River, about ten miles north of Nepigon Bay. By a little dredging this point can be reached by steamers, and a Thunder Bay branch line be avoided. It would be further from Fort Garry than Thunder Bay, but then, on the other hand, it combines the advantage of being at the same time a Lake Superior terminus and a station on the main road when this is finally built. By the cost of locks, Chief's Bay could be reached and the line located on Lake Nepigon itself. The distance from the south-east of Lake Nipissing—the ultimate eastern terminus of the Pacific—to Lake Helen is 557 miles. At Nipissing the line would be 730 feet, and at Helen 604 feet above the sea level, the highest intervening summit being 1,420 feet above the sea level; and between this and the point next in altitude lies a comparatively flat country for 370 miles. The real difficulties of this section are found, as might be anticipated, when Lake Superior is approached within twenty or thirty miles of Lake Helen. The gradients on the whole of the stretch from Lake Nipissing to Helen are not, in fact, heavier than those on many existing lines in Ontario.

From Lake Helen it is probable a north-westerly course would be taken until the neighbourhood of Chief's Bay, on Lake Nepigon, is reached, whence the road would run due west to Rat Portage at the northern end of the Lake of the Woods. Thence it would still run west, with a slight bend to the northward, to Lake Manitoba. The whole distance from Lake Manitoba to Lake Nipissing by the shortest route, including a connection with the Lake Superior navigation, will be 1,038 miles. The country between Lake Helen and Lake Manitoba is reported to present no very serious impediments to the construction of such a road.

We must await the publication of the Surveyor's report before entering more minutely into the merits of the rival routes from Nepigon or Thunder Bay. In the former case Nepigon River and Lake Helen open up a means of access to the railroad, as we have already seen, of some ten miles in length; in the latter a similar duty for eight miles would be performed by the Kaministiquia River. The relative advantages of the two bays in a climatic sense, are also matters of dispute. But there is one important consideration that gives Thunder Bay a present advantage. We want, above everything, to establish early and easy access to our north-west territory. At present the contiguity of Thunder Bay to the lake communication with the north-west makes it the point of departure. If a railroad were built for the forty odd miles now known as the Dawson Road, and another line from the Rat Portage to Fort Garry, a distance of about 100 miles, the delays of the present route would be reduced to a minimum. By the aid of the steam service already established on the lakes and rivers, and abundant facilities for moving passengers and freight across the intervening portages, Fort Garry would be easily reached in six days from Thunder Bay. If, ultimately, Lake Helen was made the starting point, the railroad to Lake Shebandowan would still be of great local value, and be available for facilitating that transport which still sought a water route, whilst the line from Rat Portage, at the northern end of the Lake of the Woods to Fort Garry, would then form a portion of the main road. The scheme would appear to commend itself very favourably to consideration.

A rough estimate of the comparative advantages in point of distance of the proposed American and Canadian lines will be interesting. From Fort Garry to Sault Ste. Marie *viâ* Duluth and water navigation, the distances would be 856 miles; from Fort Garry *viâ* Nepigon Bay and Lake Superior to the Sault it would be 664 miles; from Fort Garry to Toronto and Montreal the distances, all railway respectively, would be 1,173 and 1,288 miles; from Fort Garry *viâ* Pembina and Chicago the distances to Toronto and Montreal are, Toronto, 1,589, Montreal, 1,925 miles; from Fort Garry *viâ* Pembina, Duluth, and Saulte Ste. Marie, all rail, the distance would be, to Toronto, 1,296 miles, and Montreal, 1,446, miles. In either case, therefore, the saving by the Canadian line would be very considerable.

It remains for us only to speak of the climatic peculiarities, so far as they are

known, of the proposed route. From all the information that has reached us, these do not appear to be so formidable as had been at one time anticipated. On the western slope of the Cascade Mountains the snow-fall is heavy. There probably snow-sheds would be needed to protect the line, but elsewhere the fall is not so great apparently as in some parts of Ontario and Quebec. If this be borne out by experience—and our surveyors who bring home these reports have now spent a large amount of time and labour in their observations—the Canadian Pacific, although running so much further north, will have less to fear from the rigours of winter than its competitors for trans-oceanic traffic in the more southern regions. On this and other points, however, we shall wait with interest the publication of the official reports of the several parties whose surveys and explorations are needed in order to the finding of a correct judgment.

Inclosure 2 in No. 3.

Extract from the Toronto "Globe" of May 13, 1874.

THE PACIFIC RAILWAY.—On the order for the House to go into Committe to consider certain proposed resolutions relative to the Canadian Pacific Railway being called,

Mr. Mackenzie said: Mr. Speaker—In moving that you do now leave the chair, I propose to ask the attention of the House for a short time to some remarks that I propose to make in connection with this measure. I shall endeavour, Sir, to confine myself as closely as possible to a simple business statement of what I conceive to be necessary in submitting the resolutions of which I have had the honour to give notice. The duty is imposed upon the Government of providing some scheme for carrying out the obligations imposed by the solemn action of Parliament in this place. The original scheme, Sir, was one that I opposed at the time of its passage here, as one that in my mind then seemed impracticable within the time that was proposed, and impracticable, I may say also, with the means proposed to be used to accomplish it. I have not changed that opinion, but being placed here in the Government, I am bound to endeavour, to the utmost of my power, to devise such means as may seem within our reach to accomplish, in spirit if not in the letter, the obligations imposed upon us by the Treaty of Union, for it was a Treaty, with British Columbia. During the passage of the resolutions through the House, or through the late Parliament of this country, I expressed my mind very freely as to the nature and extent of the obligations which we were then assuming, and I expressed a very strong conviction that the passage of that measure would necessarily almost result in future calamity, certainly in future complications, which might seriously affect the political position of parties and the political position of the country generally. Sir, unfortunately—I say unfortunately, because I could wish it were otherwise—unfortunately, all that I anticipated has been fully realized. The difficulties have arisen. The late Government were able, although with some difficulty, to carry their resolutions through the House. They were able, though with difficulty, to get a majority of both Houses of Parliament to sustain them in the very extraordinary measure that they proposed—extraordinary, Sir, because it was not demanded by the Province of British Columbia. The Province of British Columbia confined itself to what seemed to me at the time a not unreasonable proposition. They were content with a proposition that this country could very easily have carried out; but the Government of the day, for some inexplicable reason, went so far beyond what that Province considered a fair and legitimate demand, as to place the whole country in jeopardy, from having undertaken a work so prodigiously in advance of what might be supposed to be the fair resources of this country.

It is worth while to glance for a while at the extent of these obligations. We know already the difficulties that have been experienced in constructing the intercolonial road, the construction of that road having been a part of the terms of Union between the Lower Provinces and the old Province of Canada. We know that that road which we had to construct was only 500 miles long; that there was ready access at every point almost along its whole course to the sea; that there was the most ample means provided in every way for carrying that road to an early and successful completion; and I recollect very well the ardent expectations entertained by many of the zealous advocates of Union. I am not sure, Sir, but I was myself among the number as to the early completion of the road, although I did not anticipate its completion at so early a day as many other Members of the old Legislative Assembly of the Province of Canada. I rather went into that work, Sir, as a necessity of the Union. I was not in favour of undertaking it at

all as a commercial transaction, but as a political necessity I accepted it, and went loyally into every means necessary to secure its completion. But I recollect very well that some prominent gentlemen in political life anticipated that that road would be constructed within three years, and anticipations were indulged in on this floor in 1867, when the Act was passed providing for its immediate commencement and construction, that within two or three years—three years at the outside—we should be able to make the railroad journey from the city of Halifax to connect with the railway system of the old Province of Canada.

Well, Sir, the three years have passed and four years more have passed, and it will take at least a year, probably two years, before it will be possible to realize the accomplishment of that very desirable wish to have a complete connection between the system of railway east and west. Yes, Sir, in 1871, when the difficulties were thoroughly understood, and it was quite apparent that the contracts for the construction of that smaller work could not be completed within two or three years of the time that was anticipated, under these circumstances, and at this time, the late Parliament of Canada, under the guidance of the right honourable gentleman opposite, gravely undertook to construct a road five or six times the length of that to which I have alluded, pledged the honour and good faith of this country to its commencement within two years (that is the commencement of the actual work of construction), and pledged the honour and good faith of the country to its entire completion within ten years. As I have remarked, I thought at the time this was an exceedingly extravagant undertaking, and I appealed to the House, not as a mere party opponent of the right honourable gentleman, but as one who felt a great interest in the accomplishment to the Union which we were then discussing—as one who was pledged, if any one in this country was pledged, to adopt every reasonable proposal which could be undertaken to accomplish the complete unification of British America. The difficulties which had to be encountered in constructing a railway at least 2,500 miles long, through a country almost entirely uninhabited, possessing a population of only 15,000 to 20,000 people, and that in the centre of the continent, with a point at which to begin on this side where no person lived, and a point at the other end where very few people lived, the difficulties, Sir, were enormous. With no settled points for the road except these two, and the point where it might touch Lake Superior, it had to traverse a country east of Fort Garry and west of the Rocky Mountains, remarkable for its rough natural features and the engineering difficulties which were sure to present themselves.

However, Sir, the work was undertaken, and we know that precisely what was anticipated has taken place. The honourable gentleman opposite, with his Ministerial majority, succeeded in getting this undertaking assumed by Parliament, and of course, Sir, they took the most extensive powers possible in order to implement their engagement. They took powers so extravagant that I was obliged at the time to call the attention of Parliament to them; but with all these powers, with all that authority which they vested in themselves, after sending a delegation, they accomplished,—what? Why, Sir, they accomplished absolutely nothing. (Hear, hear.) They never received one single offer of any amount from any body of capitalists, or from any company, unless, indeed, we except the famous Sir Hugh Allan Company, which was a mere combination for the purpose of finding capitalists who would undertake it. They had no capital themselves, and did not pretend to have any. They relied entirely upon the success of their mission to England, which proved an entire failure. We have had no history presented to the country of that mission yet. We do not know what proposals were submitted in London, or to whom they were submitted. All that we know is that a delegation of the directors of that Company went to England, passed some weeks or months there, did nothing, came back, and threw up the charter, thereby acknowledging their utter inability to carry out the undertaking. (Hear, hear.) Sir, the incoming Administration were placed in a position of peculiar difficulty in connection with this matter. We had to undertake to vindicate the good faith of the country, and do something which would enable this Parliament to carry out, in spirit if not in letter, the serious undertaking of building this railway as far as the shore of British Columbia. The legal terms are exact. We are bound within a specific time to construct a road to connect with the railway system of Ontario on the east to the Pacific coast on the west. (Mr. Bunster—hear, hear.) There is a moral obligation beyond the legal obligation. I recollect quite well, although I do not intend to base any argument upon the fact, that when the British Columbia Delegation was present in this city, and one of its members, Lieutenant-Governor Trutch, was speaking at a public meeting on the subject, and referring to speeches made by myself and other gentlemen on the floor of this House, he declared his impression to be that the exact terms of the resolutions that were passed,

endorsing the Union, could only be adhered to if it were in the power of the country to accomplish what was required. We know that Sir George Cartier, the gentleman then leading the House, the leader of the Government being then absent at Washington, was appealed to in order to quieting the apprehensions and make smooth the objections existing amongst his followers, which were known to be so great as to make it nearly impossible to carry through the measure. When thus appealed to he came down to Parliament and moved the following resolution, which was adopted:—

"That the House will to-morrow resolve itself into a Committee to consider the following proposed resolution:—'That the railway referred to in the Address to Her Majesty concerning the union of British Columbia with Canada, adopted by the House on Saturday, the 1st April instant, should be constructed and worked by private enterprise, and not by the Dominion Government; and that the public aid to be given to secure that undertaking should consist of such liberal grants of land and such subsidy in money or other aid, not unduly pressing on the industry and resources of the Dominion, as the Parliament of Canada shall hereafter determine."' Well, Sir, we now desire the gentlemen who undertook that responsibility to show us how it is possible to construct a railway 2,500 miles long, with a population of 4,000,000, passing during almost its entire length through an uninhabited country of a very rough character. How it is possible to have the exact terms of the Union observed, and at the same time have no extra taxation pressing unduly upon the resources of the Dominion, is a question which presents itself for solution. I believe it is utterly impossible to do so. (Hear, hear.) I believe there can be no question that whoever builds the road, and whenever it may be built, it must be constructed with money furnished by the people of this country. It is true, Sir, that we have a vast extent of land, the greater proportion of which is good, that may perhaps be sold and yield a considerable amount of money. We all hope it will do so, but we must not adopt such a measure as will effectually exclude, as I believe the measure of the late Government would have excluded, settlement, and prevent the growth of the country. (Hear, hear.) We are reduced then to the necessity of considering whether we will attempt to keep up a fictitious price for land, or make it so cheap as that it merely requires the railway to be built to command immediate settlement by a large population. We know, Sir, that the obligations imposed by the building of the road will not terminate with the conclusion of its construction. Supposing it only takes the minimum amount estimated by Mr. Sandford Fleming, 100,000,000 dollars, you have a pretty good appreciation of what it must cost the company in the end. When you double the debt of the country you will not be able to accomplish the borrowing of the sum of money that would be required to build this road, paying the attendant expenses of management, and the debt and everything else connected with it—you will not be able, I say, to borrow the requisite sum of money below 6 per cent. on the amount. If you add 6 per cent. upon the minimum amount to the existing obligations of this country, you will have, in addition to our present annual burdens; 6,000,000 dollars, which, added together would make a continuous application of 12,000,000 dollars before you have a cent to apply to the ordinary business of the country. Then we come to the consideration of what would be the position of the road after it was completed, supposing we were able to fulfil the obligation which gentlemen opposite undertook; and supposing we finished it in seven years, we have Mr. Fleming's authority—assuming him as an authority, and I think he is very much within the bounds, that until at least 3,000,000 of people are drawn into that uninhabited territory, it is quite impossible to expect the road to pay its running expenses. Mr. Fleming estimates these at not less than 8,000,000 dollars per annum, and they have still further to be supplemented by the proportion of money required each year to renew the road. It is known, however, I believe, to railway authorities, that considering the difficulties of climate and with the ordinary traffic, the road will require renewal, that is the renewal of sleepers and rails, every eight or ten years on an average. No doubt with steel rails substituted for iron the time for their renewal would be considerably enlarged, but to what extent I am at present unable to say. However, we may assume that it would be very much longer than the duration of the ordinary rails.

Mr. Tupper.—What do you estimate as the duration of the ordinary rails?

Mr. Mackenzie.—From eight to ten years, that, at least, is the opinion of Mr. Walter Shanly, whom I assume to be a competent authority. Supposing then that the road were completed, we would have, in addition to the burdens imposed upon us by the interest of the money, to provide for the working of the railway a sum at least equal to that amount, or 6,000,000 dollars every year, in order to keep it in repair. I present these statements not as my own, but as those of the engineers in connection with the enterprise, as well as some of the most eminent engineers we have, who have been

entrusted with the greatest works constructed on the continent. Before proceeding further, let me refer to an additional obligation assumed by the right honourable gentlemen opposite. We were bound by the terms of union to reach the sea board of the Pacific wherever we could touch its waters. There our obligations ended; but the late Government undertook that the terminus should be placed at the further extremity of the Island of Vancouver, thus adding about 240 miles to the obligations already existing. But that is nothing. We happen to know something more, and I think it was known at the time that an Order in Council was passed, which I shall not accept as an obligation entirely binding upon the country, but one which we have to regard from the point of view I shall present to the House. At present we know from the surveys of the country by engineers who have undertaken the work, that, after reaching Bute Inlet, you have still to traverse, if you carry the railway to Vancouver, a distance of 50 miles before you reach the narrows between the island and the mainland; and from the point where you leave the mainland till you reach Vancouver there are another 30 miles to be traversed. Upon these 30 miles we have no less than 3,880 feet of bridging, in a distance almost exactly equal to a mile and a half, a work of a much more formidable character than the bridge over the St. Lawrence at Montreal, composed of spans varying from 300 to 1,350 feet. The current at this point is reported by the engineers as running from 4 to 9 knots an hour. Besides, in this distance of 50 miles from Bute Inlet to the point where you leave the mainland, there is a very large number of tunnels to be constructed, varying from 100 to 3,000 feet in length, and at the islands before you reach Vancouver you have the heaviest kind of work known to railway engineers. Upon these 80 miles between Waddington Harbour and Vancouver Island, there is work of the most formidable character. These, Sir, are the chief difficulties that present themselves to our minds, and these are the facts relating to the question of the obligations which this Parliament is bound to carry out in order to maintain the good faith of the country. It, therefore, rests with the Government to take such measures as they think necessary in order to carry out as nearly as may be in spirit, if not in letter, the resolutions adopted by the late Parliament. Under these circumstances the present Government assumed office. With all these facts staring us in the face, we could not but be aware, and we were quite aware, that the difficulties to be surmounted were of an extraordinary character. We were quite aware that British Columbia claimed that the terms of Union were already violated. The right honourable gentleman opposite gave it as his opinion—and I have a very great regard for his opinion upon legal questions generally—that the work of construction was commenced when the surveys were commenced. Whether he was correct or not I do not think it necessary to say at the present moment. It will be remembered that a surveyor was sent by the Government of the right honourable gentleman to Esquimalt at a critical moment to drive in some stakes in order to make it appear as if this were a commencement of the work. We thought, in the first place, after having had time to consider what should be done, that the best course to pursue in the meantime would be to confer with the local Government of British Columbia, and endeavour to ascertain from them if any means could be arranged whereby an extension of time could be procured for the prosecution of the works which we were bound to take. With that view a gentleman was sent as a representative of this Government to that Province, and, in the course of his negotiations with the local Government, it became apparent, as it has been apparent in this House from several members from the Island of Vancouver, that it was an exceedingly important matter in their estimation that the road should be commenced at once at Esquimalt, and traverse the Island to that point where the crossing of the narrows was ultimately to be. I, for one, was quite willing, if the local Government were disposed to make some terms for the extension of time, to undertake the construction of the island portion as rapidly as possible; but if it became apparent that the local authorities were determined to adhere rigidly to the terms of Union, and demand the whole terms and nothing less, this House and the Dominion of Canada, I was and am strongly of opinion would on their part concede to them the terms and nothing more. (Hear, hear.)

Proceeding upon the belief that this was a fair representation of the opinions of the country, which had to pay for the construction of this enormous work, we instructed Mr. Edgar, who was appointed to represent the Government in the matter, to say that the Government would be prepared to undertake immediately the commencement of the work upon the island, traversing it northwards in the direction of the point of crossing, prosecute the surveys on the mainland, construct a passable road along the ridge, erect a telegraph line along the road, and as soon as the work could be placed under contract we would expend 1,500,000 dollars a year within the Province. I do not know whether the offer will be accepted or not, and, in the meantime, it is

absolutely necessary that Government should have authority to proceed with the commencement of the works in such a way as they think will meet with the acceptation of the country generally, and the reasonable people in British Columbia. There was a very considerable amount of criticism indulged in by the right honourable gentleman opposite when I avowed my own views on this question in my election address to the people of Lambton in November—when I avowed my impression to be that we could, in the meantime, utilize the inland waters, connecting them by branches of railway, building such sections as were absolutely necessary, as quickly as possible, and in this way completing, probably within the time fixed for the final completion of the road, but certainly very soon, means of transcontinental communication between British Columbia and the Eastern portion of the Dominion. And, Sir, I think I recollect the right honourable gentleman stating that if my views were carried out, or attempted to be carried out, British Columbia would be justified in seceding from the Union. He was holding out to them all the encouragement that his distinguished position in the country enabled him to do, to make matters as unpleasant as possible, and to secede from the Union if they liked. (Hear, hear). I have a better opinion of the people of British Columbia, Sir, than to believe that they will for a moment think of adopting the extreme view of an extreme and desperate party leader. (Hear, hear). We are bound, Mr. Speaker, to consider, in reference to this measure, the general interests of the country as well as our obligations, and it may well be that a nation may sometimes undertake obligations which she is never able to carry into effect. Whether the right honourable gentleman has committed that act of folly or not time will tell. I have no doubt myself at all that that folly has been committed. That policy, Sir, which I indicated, of using the water communication between Lake Nipissing, where the road was to commence, and the Pacific, was one adopted in good faith—one which I believe would be beneficial to the whole Dominion; one that, in the meantime, would serve the interests of British Columbia reasonably well, until time would enable us, by increased wealth and developed resources, to carry to completion the enormous project upon which we had entered. I pointed out in a former speech on this subject that if we once could reach Red River at a comparatively small expense—probably not more than 1,000,000 dollars—we would be able to utilize the water communication by Lakes Winnipegosis and Manitoba, and the Saskatchewan River, or by another route pass along the west shore of Lake Winnipeg, and by a short railroad pass the only formidable rapids on the Saskatchewan, and then, during the summer months, we would be able to reach the pass of the Rocky Mountains by steamboat communication at a small cost. The more I have investigated this plan, the more I am convinced of its perfect utility; and even if we were to proceed immediately with the construction of the road through the prairie country, the navigation of the Saskatchewan River is almost essential to carrying out our operations. Unfortunately, the part of the country which will cost most and will be most difficult of access is that from the Rocky Mountains westward. This portion of the road, although not approaching in mileage to the portion eastward, is much more expensive. From about 100 miles west of Fort Edmonton to Bute inlet, the entire cost is estimated at not less than 35,000,000 dollars, and as we can only begin there at the Pacific, an idea can easily be conceived how slow the progress must be. Mr. Fleming has called our attention to the fact that, although he thinks the road might be built for 100,000,000 dollars, if plenty of time were allowed to build it in, yet if undue haste were used, he would not be surprised if double the estimate should be found insufficient.

Having these facts before us in becomes absolutely necessary, in my opinion, to adopt the mode suggested in that speech of mine to which so much exception was taken, that is, to utilize the water communication in the centre of the continent as far as possible. Since the last communication made to the House, or rather to the country, the survey has partially been completed from Lake Nipissing westward, not an instrumental survey, but such a survey as to enable the engineer to say there are no engineering difficulties between Lakes Nipissing and Nepigon, a distance of 557 miles. From Nepigon to Red River, a distance of 416 miles, there are no formidable engineering difficulties, though the nature of the country makes it expensive to build.

We proposed to build the road from Pembina to Fort Garry, as our predecessors did. During the elections great capital was tried to be made out of this, and statements were made by honourable gentlemen opposite to their newspapers that this was in consequence of some bargain with the Northern Pacific Railway, and it was stated that the Northern Pacific had something to do with the previous transactions, which I do not propose to discuss now, as I intend to confine myself to the matter before the House. I may say that I never knew any one connected with the Northern Pacific

Railway, that I never had any communication with or through them, or any one connected with them, good, bad, or indifferent, and any statements to the contrary are simply without foundation; and I challenge any one in this House, or out of this House, to produce anything to the contrary. But it became evident, Sir, that the construction of these sixty-five miles of railway would be necessary in order to get into Manitoba. It was evident that if the railway should be completed through the United States from Duluth to Pembina, we would have an easy mode of communication with Fort Garry, a point on the great road itself; and that it would be of the last importance to be able to commence the line in both directions, with the view of getting immigrants from the United States and Europe into the great prairie country as rapidly as possible. We decided to lose no time in building this branch of the great Pacific road, and I have no doubt this branch will be in operation in little more than a year from the present time, if the House passes the vote which we have asked for this purpose. Thus we will have the means of commencing the road from the western point of the Fort Garry section. I have now to point out what the scheme of the Government is in relation to the construction of the road itself. I have already said I consider the building of this road to be one that has to be borne by the people of the country. It is quite useless to expect that this road can at the present time, or for some time to come, be regarded as a purely, or even partially a commercial enterprise, because I do not expect that any commercial advantages can by any possibility arise to a company constructing this road for many years to come; and as I believe in a perfectly frank, honest expression of opinion in regard to these matters as the only mode by which the affairs of the country can be legitimately carried on, I give free expression to my views in that matter. In regard to the branch from Fort Garry to Pembina, which I think has some commercial advantages which may fairly be expected within a short time to yield some return for the outlay, at present there is no doubt that the commercial advantages would not be great unless we throw upon it a great deal of the traffic in connection with the Pacific road proper. We propose, then, in these resolutions, to ask the House to agree to this general proposition. In the first place we have to ask the House for complete power to proceed with the construction of the road under the terms of the Union with British Columbia, because we cannot throw off that obligation except with the consent of the contracting parties, and we are therefore bound to make all the provision that the House can enable us to make to endeavour to carry out in the spirit, and, as far as we can, in the letter, the obligations imposed on us by law. We ask, therefore, for power to accomplish this, if it can be accomplished, and at the same time we propose to divide the road into several sections, one from Nipissing westward to Nepigon, a distance of 557 miles. This is a section which we do not consider at all necessary or desirable to proceed with at the present time. It is not one that in any way involves in spirit the obligations entered into with British Columbia, if it should be allowed to stand for the time. We propose to make another section from that point or some point on Lake Superior. Nepigon river presents, according to our present information, some considerable advantages, and, in order to have a complete summer connection through our own territory, it appears to be clearly necessary that this section should be proceeded with. Honourable gentlemen will remember that the Saskatchewan takes a long detour southwards, and we do not propose to utilize the navigation at that point. We therefore propose to build the railway from the Red River to the point where we can reach the Saskatchewan without making a detour to the south. This would, therefore, leave somewhere in the neighbourhood of between 600 to 700 miles. I cannot tell the precise distance, for the distances are all approximate. There have been no measurements, they are taken from astronomical points ascertained, making some allowance for bending one way or the other. They are purely approximate, but perhaps they are not very far from the real truth. From that point westward it is quite clear that there is no means of rapid communication except by building a railway, and this portion in British Columbia alone would take 35,000,000 dollars; and from the point which Mr. Fleming calculates as the centre of the Rocky Mountains eastward to the junction with navigation would probably be 100,000,000 dollars, or something like that. This portion we propose to proceed with as rapidly as we are able to obtain a completion of surveys.

There are now four parties of surveyors in British Columbia, one exploring party proceeding along the Cascade Range, with a view to find some other points where that formidable range could be penetrated from the plateau to the ocean. At present the easiest point appears to be Bute Inlet, especially if we look to the connection with the Island. The shortest route, however, is that which takes the Fraser River, and terminates at Burned Island; that is some fifty or sixty miles shorter than the route

whose termination is at Bute Inlet, according to the distances already ascertained, but the engineering difficulties are still more formidable.

In no portion of the Coscack Range has yet been found a favourable passage; that on the Fraser river is the most favourable, but it presents engineering difficulties almost insurmountable. To Bute Inlet there is a descent of 3,500 feet in the course of a very few miles, making an average of over 115 feet to the mile, and there are very formidable obstacles to traffic passing eastward. Still, if no better route presents itself in the course of exploration this summer, it is probable this route will be adopted by the Government. We do not commit ourselves to any portion not thoroughly surveyed. I believe it is absolutely necessary in constructing a great railway that there should be a thorough exploration and survey before it is commenced. I do not believe that any time is gained by the other course. I know our friends from British Columbia are very impatient for the actual work to be commenced, but it is impossible to commence works of construction until the plans on which they are to be constructed are decided upon. It would be very easy to commence at Bute Inlet to grade the road, and so keep within the terms of the Union Act, but I scorn to practise any deception in the matter. (Hear, hear.) I desire to be perfectly frank, and I say it is utterly unsound in practice and principle to commence the work until we know the precise point where the work should be undertaken. It would be a great mistake in the interests of British Columbia itself to commence the construction of the railway, and a year afterwards, after spending perhaps a million or more, to find that we might have obtained a road more favourable in its route and in other respects. We know that though Mr. Fleming had been engaged four years in the survey of the Intercolonial before a single sod was turned upon the line, his surveys were in such a state of incompleteness that it cost the country a great deal more than it need, and would perhaps cost more yet, besides giving rise to difficulties and to heart burnings among the contractors, who alleged they had been deceived with regard to the character of certain sections. I have these complaints before me every day. Every gentleman knows, who hears the motions made in this House from day to day for papers in connection with these contracts, that a serious blunder was made at the beginning, and that arose from the commencement of the work before a complete survey of the road had been made. We are now pushed by our friends from British Columbia to commit a similar blunder, but in a greatly enlarged and aggravated form. For if it took four years to survey the Intercolonial Railway, passing through a country which was reasonably well known, how much more difficult must it be to survey the country from the Rocky Mountains west, which is characterized as an enormous plateau, with mountain ranges rising to an height greater, in some cases, than the highest passes in the Rocky Mountains themselves? We are told, as a matter of fact, that thirty miles from the Pacific the mountains are higher than the most elevated of the Rocky Mountain range. The country is almost entirely unsettled, and is a most difficult road from an engineering point of view. It is intersected at various points by large, rapid, and most dangerous rivers, and presents some of the most formidable engineering obstacles. The Government, therefore, feel that they would not be justified if they did not prosecute as rapidly as possible a full and complete survey of the country before they commenced the road, if that road is to be anything like a success. (Hear, hear.) I have a firm belief in a great future for Canada. (Hear, hear, and cheers.) I have a firm belief that the vast prairies of the West will, even within my own life time, be filled with millions of a busy population (cheers)—that the vast mineral resources of British Columbia will be developed, and that its agricultural resources will prove much greater than at present we have reason to think they are. (Hear, hear.) And, Sir, we have also reason to hope for traffic upon this road that will make it a commercial success. Whenever it becomes necessary to use it as a commercial highway, you would find the difficulty which would be created by having it poorly surveyed and badly graded. There are various modes by which this character of railway has at several times, and in several countries, been constructed, and I think it might not be at all unprofitable to glance at some of the modes by which other countries have accomplished the building of some of their roads.

Sir J. A. Macdonald suggested that as it was now within a few minutes of 6 o'clock, and the honourable gentleman was entering upon a new portion of his subject, that he should reserve his remarks until after recess.

Mr. Mackenzie agreed to do so, and the House accordingly rose for recess.

After recess,

Mr. Mackenzie said—Mr. Speaker, before the House rose I was about referring to the mode adopted in other countries for constructing works of this character involving

the expenditure of large amounts of money. There are several countries in very much the same position as ourselves which have undertaken the construction of railways upon a large scale. If we take, for instance, some South American nationalities, we find in constructing the Plate River Railway, or the Central Railway, as it is otherwise called, which is about 247 miles long, adopted the plan of granting money to the extent of 32,000 dollars per mile, and a guarantee of 6 per cent. upon that amount for forty years. This railway passes through the Plate Valley, which contains about 900,000 square miles, with a population of 3,000,000, or three souls to the mile—a country somewhat smaller than Canada, and a climate, in many portions, somewhat similar. We find that the Southern Railway in the same Republic is constructed by a guarantee of 7 per cent. by the Government on 700,000*l.* sterling; another, by the merchants, of 25,000*l.* sterling, equal in all to about 5,000 dollars per mile. The Northern Railway, also in the Argentine Republic, received a guarantee of 7 per cent. upon 750,000 dollars for twenty years. In Chili the only railway of any consequence constructed in the same manner is that from the seaboard at Valparaiso to Santiago, a distance of 114 miles. It was undertaken at first by a Company, the Government taking two-fifths of the shares and the Company the rest. The Company worked so badly, however, that Congress finally bought out the shareholders who had begun building the railway, and borrowed 7,000,000 dollars from the Barings in order to enable them to complete the road. The road was projected in 1850, and opened for traffic in 1873. Russia is another country possessed of vast resources in land as well as money, or more properly speaking, in credit. In 1857 the first great railway corporation was organized in Russia under the name of the Grand Russian Railway Company. It was organized chiefly by French gentlemen who intended to construct a road from St. Petersburgh to Varsovie, at a cost of 70,000,000 dollars, another branch from St. Petersburgh to the Prussian frontier at a cost of 9,000,000 dollars, a third line from Moscow to Ninnaugorod at a cost of 20,400,000 dollars, all of which were completed in 1862. A fourth and fifth line were also undertaken by the Company, the one from Moscow to Theodosie, and the other from Orel to Liban. The Company received, in the first place, a guarantee of 5 per cent. upon a certain amount of capital on the three first sections, the expenditure upon which the guarantee was payable being 110,500,000 dollars; they afterwards asked an increase upon this guarantee, and also 5 per cent., equal to 114,651 dollars per mile, on the fourth line, instead of 5 per cent. on 75,428 dollars. This was refused by the Russian Government, and they finally undertook to pay interest on 89,887,700 dollars, an actual subsidy of 21,000,000 dollars, and released the Company from its obligations to build railways No. 4 and No. 5. In Portugal, one of the European countries in which railways have been built under the immediate supervision of the Government, the mode of procedure has been one of the two following. The Government initiates some of the railway projects; they first decide upon the line to be built, the mode after which it is to be constructed, the principal towns at which it is to touch, and then they invite proposals from capitalists. These proposals were based upon a careful consideration of the form of tender given by the Government to the intending contractors, and sometimes they were put up publicly to auction. Generally speaking, however, the tenders were received, and the one that presented the most advantageous terms was accepted, subject to subsequent ratification by Parliament. Sometimes Companies organized a scheme themselves, and submitted their scheme to Government, with plans and specifications, with all the information necessary to enable competing Companies to make a tender. The scheme was then advertised, and if any parties offered more advantageous terms than the original projectors were at liberty to accept those terms for themselves; if they did not it was put up to auction and sold to the highest bidder. In that case Parliamentary consent was not required. Several railways were built under this system, the first being from Lisbon to Santarem and the interior towns, the Government paying 6 per cent. for fifty years, with one-half for a sinking fund, and a bonus of 2 per cent. The second was from Bariere to St. Ules, with a subsidy of 8,500 dollars per kilometre, or 13,000 dollars per mile, with a free grant of all the timber and Government lands, the absolute subsidy of the roads becoming the property of the Company. The third was built by a French Company, from Lisbon to Cintra, the Company receiving a valuable grant of land in the neighbourhood of Lisbon by which means they expected to be able to recoup themselves. The fourth, from Lisbon to Oporto, was built by an English Company, with a subsidy of 27,000 dollars per kilometre, or in the neighbourhood of 40,000 dollars per mile, with the timber, mines, and mineral lands within one-half a mile of the road, as they might be able to discover them. The French railways have been constructed on a somewhat mixed plan. The State has surveyed the entire system of the country, over which they retain a corps of engineers. When a

road is considered necessary, it it is located in this way by the Government engineer. Ties, rails, sleepers, and so on were contracted for upon specific terms. Under this mixed system there is no doubt the French railways have been a perfect success. There has been a greater measure of safety and prosperity than on English lines, because they have been built and are worked under direct Government supervision, and are free from the competition which has done so much to injure the English and American systems of railway ; undue competition has been entirely avoided, each railway having a fair country to draw upon for its traffic.

Up to the latest date I have, I find in certain returns the Government have advanced somewhere about 200,000,000 dollars, while private Companies have advanced nearly four times that amount. Since the date of that return some heavy outlays have taken place in that country, and I merely refer to the matter in order to instance the mode of building as one from which we might derive some instruction. One of the most prosperous British Colonies, New Zealand, is doing some work of a similar character to the Pacific Railway. Although in New Zealand they have no federal system of Government, practically it is, so far as the land is concerned. Each province has a municipal Government which controls the land, and they have given these lands as security to the contractor. No calculations could be based upon them, however, our circumstances being entirely different from theirs. The Irish railway system has been partly aided by the Government. Government have advanced a very considerable sum, about 10,000 dollars per mile, on the Irish railways, giving security for interest upon the stock at the rate of from 3½ to 5 per cent., the average being 4 per cent. The system of guaranteeing the payment of interest on the stock seems to have worked well in British India, where we have instances of enormous railway works being constructed under the direct supervision of the Government by organized Companies, Government guaranteeing a dividend to the stockholders of from 4½ to 5 per cent. for a period of ninety-nine years, at the end of which time they become possessors of the railways, unless other arrangements are made. Under this system the roads are reported to be very successful, and the dividends have, in some cases, been made up by the income, there never having been serious deficiency. On the great lines the Government have one director on the Board who entirely controls the action of the other directors in regard to the rates of passage, the price of freights, and preserves a complete Government supervision over the whole railway system. The only provision made for any return to the shareholders is that, after the dividend is paid, if there is any profit half goes to the arrears of interest, and the other half to the shareholders. And now, Sir, with regard to the system this Government has by these resolutions proposed to adopt. I am reminded by some of the Opposition newspapers that it is practically the same as the scheme of the late Government. I am told by those newspapers that I only propose to build this railway by grants of money and land as was proposed by our predecessors. Sir, as we have nothing else to aid them with, it would be difficult to say how I could propose any other system. (Hear, hear.) But there is this difference between the two schemes. We frankly recognise the failure of the attempt to give a fictitious value to lands in order to get English capitalists to take up the railway, but we also frankly confess the necessity of building the railway by direct money subsidies or a combined system of giving both money and land. There is this difference, however, Sir, between their system and ours, that they they took power from Parliament to make an arbitrary arrangement with any Company that they chose, and they were not to be subject to any supervision by the Supreme Court of Parliament in this arrangement. We propose to give a specific sum per mile, in the first place, of 10,000 dollars, and, in the next place, a grant, the same as that proposed by the late Government, of 20,000 acres, the disposal of which I will attend to presently, and then we invite intending competitors to state the amount for which they will require the guarantee at 4 per cent., in order to give them what they may deem a sufficient sum wherewith to build the road. We know that some think 10,000 dollars per mile and 20,000 acres of land, supposing they realize on an average a dollar an acre, will not build the road. It would more than build it in some parts, but from end to end it is evident it will not build it. I do not know, and I have no means of estimating, the probable expenditure per mile further than that to be derived from our own experience and that of our neighbours. The Intercolonial Railway will cost about 45,000 dollars a mile, traversing, on the whole, a very favourable country, and possessing the most ample means of access at various points on its course, and with the additional advantage of having procured the iron structures and the rails at a time when there was a very great depression in the prices of iron. The Northern Pacific Railway, in the accounts published by the Company has cost, so far as it has been carried—that is, to Red River—47,000 or 48,000 dollars per mile, in round numbers. Well, Sir, that road traverses almost wholly

a prairie region—a region easily accessible, and where materials were easily found; and is altogether quite as favourable as the most favourable spot of any part of our territories, with this advantage, that it was much nearer to the producers of supplies than any portion of our line, except that on the immediate borders of the lakes.

The Central Pacific I will not touch, as the cost of that road was so enormous as not to afford any guide at all, because of the extraordinary amount of jobbing connected with it. But judging from the cost of our own railways, we have no reason to suppose that it will be possible to construct this line from end to end at a less price than 40,000 dollars per mile, and it may exceed that by several thousand dollars. Parts of it will, of course, exceed that very much, though in the whole of the sections east of the Rocky Mountains something in the neighbourhood of that figure will cover the outlay. Well, Sir, we propose to donate 10,000 dollars per mile to the Companies, and a guarantee of 4 per cent. on a sum to be named by them in their tenders, and whatever sum they may name will be the determining point as to which of the tenders is the lowest; the grant of land being also absolutely in each case 20,000 acres. But I believe it is an evil system to place any large quantity of our lands in the hands of companies, and the Government therefore propose, while giving 20,000 acres per mile, to retain the entire control of the sale of two-thirds of these lands in their hands, and only to convey absolutely to the companies one-third of the land to be given altogether. I am quite aware that this proposition is likely to depreciate the value of the lands to some extent in the eyes of companies who enter upon it as a commercial transaction, and we do not expect any companies to enter upon it in any other light. Wherever a company proposes to do it from mere patriotism we may be sure there may be some mistake. (Hear, hear, and laughter.) Honourable gentlemen opposite may well laugh, because we had an instance of that, and we know how it turned out. (Hear, hear.) But it is much better, even if that should be the case—even if it should in the eyes of the contracting public depreciate the value of the lands to some extent—that the Government should retain in their own hands the entire control of the greater proportion of these lands, because I attribute a very great deal of importance indeed to being able to throw in settlers to all parts of the country, and filling it with population, which is the only thing which can give ultimately commercial value to the road or prosperity to the country. It will be observed, Sir, that in the resolutions, as I have mentioned, the Government provide for the submission of these contracts to Parliament. They provide also that in case we receive no proposals for the building of what are called the sections in the Bill, that is any of the four great divisions, the Government take power to issue proposals to build the road by direct Government agency. That, however, will be subject also to the ratification of Parliament. We do not expect that any company will make a proposition to build a less portion than one of the sections I have indicated, that is from Nipissing to Nepigon, 557 miles; from Nepigon to Red River, 410 miles; or if we take any point of departure on Lake Superior, from that point wherever it may be, then from Red River westward to Fort Edmonton or the point where we may make a connection with the section west of the Rocky Mountains. These are the four great sections, and it may be quite advisable, quite possible, and altogether it may be the best thing that can be done, that each of these sections should be built by an independent company instead of having one grand company monopolizing the entire system of contracts. That is a matter which is one more of detail, however, than one of principle, and I merely mention it because we have divided the country into these sections for the convenience of getting tenders from companies which might not be powerful enough to undertake the whole, but might be able to undertake a part of it; and also because in the central region we do not intend at present to invite any proposal for immediate execution. The British Columbia section will, of course, have to be proceeded with as fast as we can do it, as it is essential to keep faith with the spirit, and as far as possible with the letter, of the agreement. (Hear, hear.) The branch from Pembina to Fort Garry we propose in the Bill to take absolute authority to build immediately, and as we expect to begin the work of construction some time during the present year, we will not propose in the Bill to reserve that for the sanction of Parliament. In connection with a through line upon our own territory, it would be observed that we have proposed to build from the mouth of French River, on the Georgian Bay, if that shall prove to be a favourable harbour, as we have every reason to believe it will, eastward to the neighbourhood of the place where it was proposed originally to commence the road, that is on the south-east of Lake Nipissing—we are not able to indicate the precise spot in the absence of definite surveys. This branch will probably be from 80 to 85 miles in length, and we also propose to get the authority of Parliament to subsidize existing or projected lines connecting that branch with the railways tending eastward, so that if this road and its connecting line were

complete, passengers might leave any of the Lower Provinces, any part of the Province of Quebec or the Province of Ontario, and travel upon that line up the Ottawa Valley, and on the subsidized line to our own branch, take the steamer on the Georgian Bay, and again connect with the line at Lake Superior, and thus have a complete system through the whole length of the Dominion through our own territory. That is the plan we propose in the Bill we have submitted to Parliament, and it is one that I venture to hope will secure the approval of gentlemen on both sides of the House, and of the country at large.

Mr. Tupper.—Is it intended that there shall be two branches, one on the Ottawa River, and one to the roads connecting with Toronto at Nipissing? What are the distances?

Mr. Mackenzie.—I am not sure of the distances. It is intended to subsidize two branches, but the principal one will be that tending towards the Ottawa Valley, and that for a very obvious reason. There are means of communication now to points on the Georgian Bay, to Lake Huron, connecting with the entire Ontario system, so that it is no very great hardship to get from any part of Ontario in this quarter to the Georgian Bay; but it is tolerably evident to anyone who takes the map that a road going upward in the Ottawa Valley to the neighbourhood of Pembroke, or somewhere further north, and then taking a direct line on what we believe to be a most favourable gradient to the mouth of French River, will give by far the shortest route to the north-west territories from any point on the Ottawa River, and particularly from Montreal and places east. I do not know, Mr. Speaker, that it is necessary that I should say anything further in elucidation of the resolutions that I propose to submit to the House. There is one point, however, that I desire to say a word or two about before I sit down, more in explanation of what has taken place in British Columbia than either in defence or explanation of the Government policy. It will have been observed, Sir, that there was a good deal of excitement, not to say commotion, in that province over some proposed aid to be given for the building of a dockyard for that province. Under the terms of Union it was provided that this Government should guarantee the interest on 100,000*l.* sterling for ten years at 5 per cent., for the completion of that work. A short time after I had been in the Government, representations were made to me by members from that Province that the attempt to get the dock built with this guarantee had been an entire failure, and asking the consideration of the Government to a new proposal. That proposal I found had been submitted to our predecessors, the late Government, and it was substantially that the Government should advance to that province a sum of 250,000 dollars, to be paid out as the work progresses, instead of giving a guarantee for 5 per cent. interest on 100,000*l.* sterling for ten years. After careful consideration, we felt it was of great importance to British and Canadian commerce—for although Canadian commerce is small as yet on the Pacific, we hope to see it become a very large commerce—we felt, I say, that it was extremely desirable that facilities should be given at that place both for commercial vessels and vessels of Her Majesty's navy. We have found within the last few days, indeed, that a great convenience results from Esquimalt being a naval station, as the Government has on several occasions obtained the aid of one of the gun-boats usually stationed there to perform what is really Dominion or Provincial service, and we felt quite justified in accepting the proposal of the Columbian Government, through some of its members here, to advance the sum of 250,000 dollars. If Parliament should approve of the measure we have submitted, a resolution which is on the paper, and which I shall move as soon as these resolutions are disposed of, will authorize the Government to carry this out. It was assumed in the province that we had agreed to this modification in favour of British Columbia, for the purpose of offering some sort of inducement to them to make reasonable terms in reference to the building of the railway. It is, Sir, one of those modifications that one might reasonably expect to have such an influence on the provincial mind there, but that there was ever a word passed on the subject between myself and the honourable member for Victoria who sits behind me concerning any bargain of this kind I utterly deny. There was no word, from first to last, about any terms whatever. We merely thought this was one of the modifications of the terms of the Union in favour of the Province that circumstances seem to have called for, and that the Government was ready to concede for the benefit of the Province and the interests of the Dominion. (Hear, hear.) The Government will feel bound on all occasions to consider anything of that kind in the same spirit, and whether the British Columbian Government and Legislature make any reasonable modifications in the terms of Union or not, it will make no difference with this Government in carrying out what is just and right in the public interest. It is just the same with reference to the other proposal to advance to the Government of British Columbia for

internal matters a sum of 900,000 dollars, or thereabouts, being the amount upon which they are entitled to receive interest. A measure will be submitted to Parliament to carry out both projects, but they have no connection whatever with the terms connected with the Pacific Railway further than I have indicated. We expect every Province to to concur in any reasonable modification of what may be rigidly due to them when the public weal seems to call for it; and the Dominion, on the other hand, will be open to consider anything that is essential for Provincial prosperity, even if the terms of Union should not strictly require it. This is the principle upon which the Government have considered these two proposals, and this is the spirit in which we expect British Columbia to receive them. We frankly confess that we are unable to carry out the terms of Union. All engineers pronounce it a physical impossibility; and, under these circumstances, all that British Columbia could fairly complain of would be an indisposition on our part to carry out the terms as far as practicable. They have seen no such indisposition on the part of this Government, and they will see none on the part of this Parliament, and it would be mere madness for them to expect, or for us to pretend, that we were willing to do what everybody knows is a physical impossibility. I have no doubt, Sir, that the House will agree to these propositions. In the discussion of this question in the newspapers within the last few days, although we might fairly expect newspapers in the interests of gentlemen opposite to discuss these resolutions more from a party than from a national point of view, I have seen no solid objection taken to any of the propositions submitted by the Government, and I am sure discussion for the last few months have been entirely in favour of the scheme foreshadowed by myself in January. In any case we have deliberately adopted this policy, which, when fully understood, as I think it is already pretty well understood, will be acceptable to the people generally, and, I hope, to a very large proportion of the inhabitants of British Columbia. They are spoken of as the people most deeply interested in this road. No doubt they are. Their country is a large one and the population small, there being but a few thousands of them. The advantage to them and to their Province of opening it up by railway communication is great, and I am not surprised that they should be extremely sensitive on the subject. But the terms provided for in the Act of Union were very objectionable to the members of the Parliament which agreed to them, three-fourths of whom, I am safe to say, disapproved of them, but they were forced upon them by party exigencies, and softened down by resolutions which, if they had any meaning at all, meant that they were not intended to be carried out. We accept these obligations, however, as binding upon us, so far as it is in our power to carry them out, and consequently we present this our scheme. It being impossible to implement our bargain to the full extent, we propose a means of access to British Columbia by the people east of the Rocky Mountains, and similar advantages to those on the west for reaching the older portions of the Dominion by connecting our inland waters by means of railways. It is quite possible, Sir, that I may, at a subsequent stage, have to make some further explanations in regard to this matter, but in the meantime I leave the resolutions in the hands of the House, confident that they will coincide in the policy we propose, and confident that the resolutions will also commend themselves to the confidence and good judgment of this country, and not only of this country and this Parliament, but of the Imperial Parliament also, and of every reasonable man. (Cheers.) In conclusion, that this House will pass these resclutions I have no doubt whatever. (Loud and prolonged cheers, amid which the honourable gentleman took his seat.)

Mr. Tupper said that he did not rise to continue the discussion at the present time, but to suggest to the honourable gentleman whether it might not shorten the time which would naturally be occupied in the discussion of so large a question if the House were now to pass the resolutions as they were *pro formâ*, and discuss them when the motion was made for the second reading of the Bill. (Hear, hear.) If the proposal was agreeable, he would not on the present occasion make the remarks which would naturally be expected from some gentleman on that side of the House upon the speech which had just been delivered.

Mr. Mackenzie said that of course it was for honourable gentlemen opposite to decide on any course they pleased under the circumstances. He had taken occasion, in introducing the resolutions, to speak with considerable fulness, with the intention of introducing his Bill after the resolutions had been discussed and then passed. Still, if honourable gentlemen opposite desired to take the discussion at a later period it would suit him.

Mr.. Tupper said he was not prepared at this moment to follow the honourable gentleman, and he thought the discussion could be postponed with advantage.

Mr. Mackenzie said that the Honourable Member for Cumberland had stated that when a measure of this kind was brought down, it was of course understood that the carrying of the resolutions meant the carrying of the measure itself. Of course honourable gentlemen need not say anything on the resolutions now. They could wait until the third reading if they pleased, but the Honourable Member for Cumberland knew that on any resolutions like these the discussion ordinarily took place on the motion for going into Committee, and anything that was said after that was a mere matter of form.

Mr. Blake said that he had always thought it a most wholesome provision of our legislative system that a measure like this should be first brought up in the form of resolutions, and a Bill then introduced founded upon them. The arrangement was one which afforded opportunity for a complete consideration of any measure, and that opportunity was given before decisive action was taken by means of a discussion at an early period of the progress of the measure through the House, to be renewed, if necessary, at a later period. They were anxious, of course, to close the discussion on this question as early as they possibly could. In view of what he considered a very long debate on this measure, he had ventured to recommend the postponement of another important Government measure. He was sure they should all be glad to hear what the honourable gentleman's views were with regard to this scheme now, and if he did this, the House would be better able to form their opinions on these views at a future day, when the honourable gentleman brought before them resolutions embodying these views. If honourable gentlemen opposite said they were willing to let these resolutions go *pro formâ* the Government could not object, but of course they could not draw the badger.

Mr. Tupper said that two sets of resolutions had been submitted to the House, the first containing 120,000 dollars, and the second 10,000 dollars, per mile, as the subsidy to be given.

Mr. Mackenzie said that this was owing to a clerical error.

Mr. Tupper said he would remind the Honourable gentleman that the House had only had these last resolutions in their hands within a few hours. He had learned this morning for the first time that there had been a change made in them involving the sum of 27,000,000 dollars. The opinions Honourable Members had formed with regard to the scheme must have been changed by this alteration.

Mr. Mackenzie said that he received his copy of the resolutions at midday on Saturday, and the honourable gentleman must have had them since that time in his box. They had been in the hands of Honourable Members for two days at any rate. He moved that the Speaker do now leave the chair.

The motion was carried, and the House went into Committee, Mr. Forbes in the chair.

The resolutions were adopted, and the Committee rose and reported. The resolutions were then read a second time, and Mr. Mackenzie introduced a Bill founded upon them. The Bill was read a first time, and the second reading fixed for to-morrow.

Inclosure 3 in No. 3.

Extract from the Toronto "Globe" of May 13, 1874.

Summary of Mr. Mackenzie's Speech.

THE CANADIAN PACIFIC DEBATE.—The Canadian Pacific Railway scheme yesterday entered upon a fresh era of its history. On the motion to go into Committee on the resolutions on which the new measure will be founded, Mr. Mackenzie, in an extremely able speech, gave the House a full exposition of the policy of the Administration with regard to this great enterprise. He drew attention to the circumstances surrounding the original agreement to build the Pacific Road, and to the fact that he then anticipated and predicted future complications as the necessary result of the recklessness of the Government by which the terms of union with British Columbia were negotiated. That recklessness was the less excusable, because the Government had the benefit of the experience gained from the Intercolonial, then, and still in progress. But that road was only 500 miles in length; it was accessible at all points from the sea; it possessed, therefore, none of the difficulties besetting the Canadian Pacific. Yet, while at one time it was supposed the intercolonial would be completed in three years, seven

years had elapsed, and it would take another year at least before the work would be finished.

All this was known to the late Government, when, in 1871, they pledged themselves to build a road 2,500 miles in length, through an all but inaccessible country, with only a few thousands of inhabitants, along a line of route beset with difficulties and obstacles to its construction. And their scheme was so rash and impracticable, that it was not possible to obtain even recognition for it in the money markets of Europe. The legal terms of the contract with British Columbia were exact; but even when they were being forced through the House in 1871, a resolution was introduced to satisfy the murmurings of Ministerial followers, the terms of which proved that it was not even then intended the compact should be literally complied with. The burdens of such a work would not cease with the building of the road. It was possible to grant land for the construction of the railway, but it might be possible, by fixing a price upon the land, to exclude population, and the first necessity was to make ingress to the country so easy, and land so cheap, as to fill it as early as possible with a population.

The lowest estimate of the cost of the road, made by Mr. Sandford Fleming, was 100,000,000 dollars. The charges and interest on that amount could not be less than 6,000,000 dollars per annum. It was estimated, that not until the population of the regions traversed numbered 3,000,000, would the road pay its working expenses. These expenses were calculated at not less than 8,000,000 dollars a-year, and that vast sum would not include renewals of rails and sleepers which would have to be made, if iron rails were employed, every eight or nine years. It must be expected, therefore, that they would have to provide 6,000,000 dollars a-year to keep the road in operation.

But it was not only the legal contract made between the Dominion Government and British Columbia that had created embarrassment. That bargain declared the terminus of the road should be on the shores of the Pacific Ocean; but the late Government had agreed to locate it at Esquimalt in Vancouver Island, 240 miles further than the point on the mainland, which would comply with the original obligation. Nor was this the only additional responsibility involved in such an agreement, The engineering difficulties to be encountered in constructing the line to Esquimalt would be enormous. After leaving Waddington Harbour, on Bute Inlet, the road to reach Seymour Narrows, would, for 50 miles, be of the most costly construction, involving a large number of tunnels, varying from 100 to 3,000 feet in length. To cross the Narrows they would require 7,880 feet of bridging, one bridge to be of 640 feet clear span, three of 1,100 feet each, one of 1,200 feet, and two of 1,350 feet, the water being too deep to admit of piers, and the current running at from 4 to 9 knots an hour. The 30 miles intervening between the mainland and Vancouver was studded with islands, which must be crossed, and which would involve works of the most formidable character. These were some of the difficulties which faced the Government on their coming into office. They desired to do their best to fulfil the obligations incurred by their predecessors, without admitting them to be absolutely binding; and had accordingly directed Mr. Edgar, who had gone to British Columbia as their confidential agent, to offer the Local Administration to commence the road at Esquimalt, and push it forward as rapidly as practicable, if the British Columbians would assent to a relaxation of the original terms, and accept an agreement that the Pacific road throughout the Province should be built at the rate of an expenditure of 1,500,000 dollars a-year. If that was refused, then they had no resource but to abide the terms, and need go no further, those terms not compelling them to enter Vancouver Island at all. Whether this reasonable proposal would be accepted or not, he could not at present say.

The speeches of Sir John A. Macdonald during the elections had been designed to create difficulties as far as possible. The British Columbians were told, a breach of the terms would entitle them to secede from the Confederation; but Mr. Mackenzie had a better opinion of his fellow-countrymen than to suppose they would listen to the desperate advice of a desperate party leader.

He went on to say, he had proposed to utilize the water communications of the north-west in perfect good faith; and the more he reflected on that portion of the scheme, the more he was convinced of its policy, and the necessity of adopting it. The road from the Rocky Mountains to Bute Inlet would alone cost at least 35,000,000 dollars. If they took time, the minimum cost of the whole road—100,000,000 dollars—might suffice; but, if they were limited to time, Mr. Sandford Fleming was of opinion it might cost double that sum.

Between Lake Nipissing and Lake Nepigon no serious obstacles presented themselves. From Nepigon to Fort Garry the work, although formidable, was not appalling. The road from Pembina to Fort Garry, would have to be constructed at once, both on

account of the people of Manitoba, and as an auxiliary to the construction of other portions of the railway.

In this connection he took occasion to scout the charge of collusion between himself and the promoters of the Northern Pacific. The section lying between Nipissing and Nepigon they did not propose to construct at present, nor would the delay of this portion be at all at variance with the spirit of the original undertaking with British Columbia.

The road from Lake Superior to Fort Garry would have to be built as early as practicable, so as to secure a summer route to Red River. That section would be 416 miles in length. From Fort Garry to Fort Edmonton was 780 miles, but the Saskatchewan could be ascended for several hundred miles further west. From thence to the Pacific Coast a railroad was the only means of access left to them. They would have, as had been seen already, to spend 35,000,000 dollars on the construction of the road through British Columbia, besides building 100 miles of railway on the eastern side of the Rocky Mountains. Survey parties were now seeking an easier route through the Cascade Mountains. The shortest route for the line would locate its terminus at Burrard Inlet, but it was probable that the route terminating at Bute Inlet would prove the most desirable, especially in view of the railway being carried to Vancouver Island, although there the gradients were for a considerable distance no less than 115 feet to the mile. The surveys were not yet completed, and he would, under no circumstances, be a party to taking one step until possessed of every needful information for giving the contracts, with a view to their satisfactory fulfilment.

After expressing his confidence in the future of Canada, if her affairs were prudently managed, Mr. Mackenzie described in some detail the nature of the arrangements made by other Governments for the construction of railroads. He then described the plans of the Government for building the Pacific Railway, as already explained in "The Globe," including the subsidy of 10,000 dollars per mile, the land grant of 20,000 acres per mile, with the provisions for its sale under Government authority, and the guarantee on terms to be agreed on in the contracts. He could not estimate the cost of the road eastward of the Rocky Mountains at less than 40,000 dollars a mile, and would not say it might not largely exceed that sum. The Government would take powers to construct the work by contract, or otherwise, but in either case they would first come to Parliament for its sanction and authority. Probably they might find it best to allow the road to be constructed by four independent companies instead of one great corporation; but on this point he did not desire to commit himself. He referred to that portion of the scheme which relates to the line from the Ottawa to the Georgian Bay, and the connection to be established with the Provincial lines, and made some remarks in explanation of the arrangements with British Columbia with regard to the graving dock at the Esquimalt, and the capitalization of the annual subsidy.

No. 4.

The Earl of Dufferin to the Earl of Carnarvon.—(*Received May* 28.)

My Lord, *Ottawa, May* 15, 1874.

IN continuation of my despatch of this day's date* I have the honour to inclose an article from the Toronto "Mail," opposition paper, criticising the scheme of the Government.

I have, &c.
(Signed) DUFFERIN.

Inclosure in No. 4.

Extract from the "Mail" of May 14, 1874.

THE PACIFIC RAILWAY.—We have now heard Mr. Mackenzie's explanations of the Pacific Railway resolutions. In his speech he endeavoured to combat the statements made in these columns that his scheme, if carried out in good faith, was virtually the scheme of his predecessors, which had been so unsparingly condemned by him and his party. We apprehend that those who listened to the disclaimer failed at the same time

* No. 3.

to find any justification of it in the Premier's remarks. The only point of difference to which the First Minister alluded was the disposition of the land grants; this, however, is but an incident of the scheme, and we shall refer to it farther on. Taking the Government's propositions as they appear on paper, they contemplate the construction of a line of railway from Lake Nipissing to some point on the Pacific Ocean, with branches from Pembina to Fort Garry, and from Lake Nipissing to the Georgian Bay. In the latter respect there is a change from the scheme of the old Government, which proposed to make this branch from Lake Superior, rather than from the Georgian Bay. Otherwise, we repeat, it is the old plan in all its essential features. We are speaking now of the railway, and not of the manner in which it is to be constructed—of what the men in power once so vigorously and, as now appears, so unreasonably opposed.

The Premier's speech makes plain what was before only a matter of suspicion. The paper plan is one thing, the real Government plan another. The paper plan was conceived to be necessary to satisfy the representatives and the people of British Columbia. The real plan is a tricky and roundabout way of avoiding what Mr. Mackenzie confesses are, in fact, Treaty obligations between the Dominion and the Pacific Province. Let us look at the scheme. Mr. Mackenzie assured the House and the country that the explorations which have been made show that there are no serious engineering difficulties on the section between Nipissing and Nepigon, which was supposed to present the greatest physical difficulties on the entire route. At the same time, patting the eastern men on the back, he dwelt upon the advantages to Montreal and Quebec and the Provinces to the eastward, of the connections to be formed between the Pacific Railway at Lake Nipissing, and the lines in course of construction from more easterly points westwardly to the eastern terminus of the Pacific road. In one breath he blows all this away, as though the portions of his resolutions referring to the eastern section had never been written nor printed, into thin air, by emphatically declaring that the Government do not intend to build this section at all. He did not even attempt to make an approximate estimate of the time within which it would be built, and thus form the connections between the east and west of which he spoke. It is, in fact, abandoned as completely as though it were never mentioned, and we are safe in saying that, if this Government were to remain in power for a quarter of a century they would not construct it, unless, indeed, some dire political necessity or the incentive of personal gain urged them to it. The eastern men, who looked for bread from Mr. Mackenzie's hands, may well say he has given them a stone. Well, the eastern section of the railway is to be thrown over. What then? The section between Nepigon or some point on Lake Superior and Fort Garry, the Premier says, will be first entered upon, but the time when is an important point, on which he gives no information whatever. The Pembina branch, he says, will be proceeded with immediately, although it is only a few weeks since the First Minister told a Manitoba delegation that the Government had no intention of going on with this branch until the American Company had extended their road northward to the border line. He (Mr. Mackenzie) is equal to the concocting of the most diverse policics in the briefest possible space of time. It is, at all events, satisfactory to know that something is to be done—that something is the Pembina branch. By way of parenthesis, we would ask here, where now are H. S. Howland and John Turner, and J. D. Edgar, and Messrs. Cook, Cockburn, and the other incorporators whose suspicious bills Mr. Moss has in charge? As the first carrion is to be found between Pembina and Fort Garry, thither let the eagles turn their attention. But to "return to our muttons." Having got to Fort Garry by rail, we find Mr. Mackenzie still enamoured of his magnificent water "courses," though they are not once named in the resolutions. These he intends, he says, to utilize between the Red River and Edmonton, a distance of 600 or 700 miles, but at what period is as indefinite as everything else in the scheme, except the Pembina branch. From Edmonton westward he estimates that about 100 miles of rail will be required until the British Columbia section is reached, but when the Pacific section is to be commenced we are not informed. That, too, is left in indefiniteness, and may be supposed to depend upon the ambassadorial success of the defeated of Monck. We can only say the British Columbians are easily satisfied if any assurance which Mr. Mackenzie has given them in his speech will be regarded by them as satisfactory.

The dream of a trans-continental British-American Railway has been effectually destroyed by the present Government. The magnificent scheme of their predecessors, which was to cost, all told, only 30,000,000 dollars, and 50,000,000 acres of land, is, we fear, dwarfed to the puny proportions of a road to Fort Garry, and a branch line which may be characterized as a railway to help the Northern Pacific Company out of its difficulties. But supposing that we are wrong in this apprehension, and that it is the inten-

tion of the Government to make the Canadian Pacific Railway a grand reality, what of its cost? How does the scheme of the "Great Reform Government" compare with that of their much-denounced predecessors? We were disposed to doubt if the Government really meant to commit the country to the enormous expenditure foreshadowed by their resolutions, and though the junior Ottawa organ of the Ministry, which is remarkable for nothing so much as its evident want of brains, undertook to question our calculations, we have the satisfaction of knowing that the Premier's statement entirely bore them out. The financial part of Mr. Mackenzie's speech, it is true, is open to the strong suspicion that it was made in the interest of the Premier's contractor friends. The lands, he says, cannot be expected to realize more than a dollar an acre. Perhaps not, if they are at once forced upon the market, as this Government, whose members were at one time so strongly opposed to their sale altogether, intend to force them. In the hands of a company they could be made the basis of financial operations, and mostly held until the railway made them valuable. Untold millions will most assuredly be lost to the country by the changed policy of Government with respect to the lands; but we are now dealing with the Premier's figures. 50,000,000 of acres of land, he says, will realize as many millions of dollars; add to this 26,000,000 dollars of a direct subsidy, and a simple calculation will give you an absolute cash bonus of 28,000 dollars per mile, for which the Government becomes responsible. But the Premier says in all probability the road will cost 48,000 dollars per mile, the British Columbia section being a particularly costly one. This leaves 19,000 dollars, or, in round numbers, 20,000 dollars per mile, on which the 4 per cent. guarantee for 25 years will require to be paid. The sum total of all this is, that to carry out their paper scheme, the Government propose to give 80,000,000 of dollars in hard cash, and, in addition, the proceeds of 50,000,000 of acres of land so soon as the lands are disposed of, or 50,000,000 dollars more than the sum offered by the reckless, extravagant, and corrupt Government which was compelled to go out of office on issues arising out of this question.

Mr. Mackenzie took credit to the Government because they proposed to submit the contracts to Parliament. Verily, these Pharisees strain at a gnat and swallow a camel. This submission of contracts to Parliament is the veriest farce in the world on the part of this Government—a hollow concession designed as a cloak to the retaining of all actual power in their own hands. Everything of real consequence these sticklers for Parliamentary responsibility propose to do by Order in Council. They can commence any section or sub-section when they please, and stop it when they please. There is nothing in connection with the road which they cannot do of their own motion, except handing over the contracts without the formality of their submission to Parliament. And here, in fact, is to be seen one of the biggest Ethiopians on this particular fence. The whole scheme is so arranged as to enable the Government to take up bit by bit of the railway, and hand it over to their contracting friends. They will let a contract when it pleases them to do so, and no sooner. The whole project as cut and carved out by Mr. Mackenzie and his colleagues savours strongly of jobbery and corruption, and, we venture to predict, will lead to an infinite quantity of both, while at the same time it opens wide the door for that dreaded American influence which was made such a bugaboo of by the Grits when their opponents were in power, and which was so strictly guarded against by the late Administration, whose entire policy, as now most plainly appears, was alike economical and patriotic, that of the present Government being the very reverse.

No. 5.

Lieutenant-Governor Trutch to the Earl of Carnarvon.—(*Received June* 12.)

(Telegraphic.) *June* 11, 1874.

MINISTRY desire notify you that Delegate proceeds immediately London present appeal British Columbia against breach by Canada railway terms union.

No. 6.

The Earl of Carnarvon to the Earl of Dufferin.

My Lord, *Downing Street, June* 18, 1874.

THE intimation which I have received by telegraph of the departure from British Columbia of the President of the Council and Attorney General, sent to this country for

the purpose of appealing against the course proposed by your Government and sanctioned by the Dominion Parliament, in regard to the Pacific Railway, together with the reports of the proceedings in that Parliament, and other informal communications, have led me to apprehend that the difference of opinion which has unfortunately occurred may not only prove difficult to adjust, but may not impossibly, if it remains long unsettled, give rise to feelings of dissatisfaction and to disagreements, the existence of which within the Dominion would be a matter for serious regret.

2. It is not my wish, nor is it a part of my ordinary duty, to interpose in these questions. They appear to me to be such as it should be within the province and the competence of the Dominion Government and Legislature to bring to a satisfactory solution; and you will readily understand that Her Majesty's Government would be very reluctant to take any action which might be construed as expressing a doubt of the anxiety of the Dominion Government and Parliament to give the fullest consideration to such representations as may be made on the part of British Columbia, and to deal in the fairest and most liberal spirit with what may be established as being the just claims of that Province.

3. At the same time I am strongly impressed with the importance of neglecting no means that can properly be adopted for effecting the speedy and amicable settlement of a question which cannot, without risk and obvious disadvantage to all parties, remain the subject of prolonged and, it may be, acrimonious discussion; and it has occurred to me that as in the original terms and conditions of the admission of British Columbia into the Union, certain points (as, for example, the amount of land to be appropriated for the Indians, and the pensions to be assigned to public officers deprived of employment) were reserved for the decision of the Secretary of State; so, in the present case, it may possibly be acceptable to both parties that I should tender my good offices in determining the new points which have presented themselves for settlement. I accordingly addressed a telegram to you yesterday to the effect that I greatly regretted that a difference should exist between the Dominion and the Province in regard of the railway, and that, if both Governments should unite in desiring to refer to my arbitration all matters in controversy, binding themselves to accept such decision as I may think fair and just, I would not decline to undertake this service.

4. The duty which, under a sense of the importance of the interests concerned, I have thus offered to discharge is, of course, a responsible and difficult one, which I could not assume unless by the desire of both parties, nor unless it should be fully agreed that my decision, whatever it may be, shall be accepted without any question or demur. If it is desired that I should act in this matter, it will be convenient for each party to prepare a statement, to be communicated to the other party, and after a reasonable interval a counter-statement; and that on these written documents I should, reserving of course to myself the power of calling for any other information to guide me in arriving at my conclusion, give my final decision.

5. I request you to transmit a copy of this despatch with the utmost possible speed, to the Lieutenant-Governor of British Columbia. I have communicated to Mr. Sproat, the Agent for British Columbia, for transmission by telegraph, to the Government of that Province, the purport of the telegram which I addressed to you yesterday, in order that my offer may come before both parties as soon as possible.

I have, &c.
(Signed) CARNARVON.

No. 7.

Lieutenant-Governor Trutch to the Earl of Carnarvon.—(Received July 22.)

My Lord, *British Columbia, Government House, June 11, 1874.*

I HAVE the honour to state that I have this day, at the instance of my responsible Advisers, addressed to your Lordship a telegraphic despatch to the following effect:—

"Ministry desire notify you that Delegate proceeds immediately London present appeal British Columbia against breach by Canada Railway Terms Union."

I have, &c.
(Signed) JOSEPH W. TRUTCH.

No. 8.

The Earl of Dufferin to the Earl of Carnarvon.—(*Received July* 22.)

My Lord, *Quebec, July* 9, 1874.

I HAVE the honour to forward, for your Lordship's information, a printed Circular from the Department of Public Works inviting proposals for the erection of a line of telegraph along the general route of the Canadian Pacific Railway.

I have, &c.

(Signed) DUFFERIN.

Inclosure in No. 8.

Canadian Pacific Railway.—Telegraph Line.

PROPOSALS are invited for the erection of a line of telegraph along the general route of the Canadian Pacific Railway, as may be defined by the Government. The proposals to embrace the following points, viz. :—

The furnishing of all materials, labour, instruments, and everything necessary to put the line in operation.

The maintenance of the line for a period of five years after its completion.

In the wooded sections, the land to be cleared to a width of 132 feet, or such greater width as may be necessary to prevent injury to the telegraph from fires or falling trees.

Distinct proposals to be made for each of the following sections; such proposals in each case to state the time when the party tendering will undertake to have the telegraph ready for use :—

1. Fort Garry to a point opposite Fort Pelly, about 250 miles.
2. Fort Garry to the bend of the North Saskatchewan, about 500 miles.
3. Fort Garry to a point in the longitude of Edmonton, about 800 miles.
4. Lac La Hache, or other convenient point on the existing telegraph system in British Columbia, to Fort Edmonton, about 550 miles.
5. Fort Garry to Nepigon, Lake Superior, about 420 miles.
6. Ottawa to Nepigon, Lake Superior, about 760 miles.

The above distances are approximate. They are given for the general guidance of parties desiring information. Any increase or diminution in the ascertained mileage after construction will be paid for or deducted, as the case may be, at a rate corresponding with the sum total of the tender.

Parties tendering must satisfy the Government as to their ability to carry out the work and maintain it for the specified time.

Proposals addressed to the Minister of Public Works will be received up to the 22nd day of July next.

By order,

(Signed) F. BRAUN, *Secretary.*

Department of Public Works, June 18, 1874.

MEMORANDUM.

Information to Parties proposing to Tender.

IT is deemed best to make no binding stipulations as to the form of proposal, so that parties tendering may be at liberty to state their own terms and conditions, leaving the Government to accept the offer which, in the interest of the public, may be found most advantageous.

At the same time it is considered advisable to furnish some data for the guidance of parties tendering, in order that proposals may be made on the same basis and be uniform in essential points.

The following is, therefore, with this object in view, submitted :—

1st. It is intended that the telegraph shall be built along the line to be adopted by the Government for the railway across the Continent.

2nd. The general character of the country to be traversed by the railway, is described in the Reports relating to the Exploratory Surveys, recently published.

3rd. The several routes now under consideration and survey, are also referred to in the above Report.

4th. When the route is adopted by the Government on any particular section, the line to be followed by the telegraph will be defined on the ground by the Government Officers.

5th. Through forest the timber must be cut down and completely burned (cleared) to a width of 2 chains (132 feet), to prevent injury to the telegraph from falling trees or fire. At the option of the contractor valuable timber may be cut in lengths, hewn, piled, and reserved at his risk.

6. Along the cleared ground a pack trail or road to be made for the purpose of carrying material for constructing the telegraph, and for effecting repairs.

7th. Through forest, the poles should be of moderately large dimensions and of the best available timber to be had in each locality.

8th. In prairie sections, when suitable timber for permanent poles cannot be obtained until the railway be constructed, and the means of conveying them from a distance thus provided, the poles may be of an average light description, and of such timber as can most conveniently be procured.

9th. In forest sections the poles may be erected 132 feet apart, and the wire to be used may be that known as No. 11.

10th. In prairie sections the poles may be erected 176 feet apart, and the wire to be used may be that known as No. 9.

11th. Each tender will specify the kind of insulator, as well as all other apparatus and materials proposed to be used.

12th. Parties tendering may stipulate for maintaining and operating the line for five years, or a longer period.

13th. On account of the difficulties in the way of transporting building material, it is not expected that the telegraph will, in the first place, be so permanently constructed as could be desired. The main object, however, is to provide a pioneer line throughout the whole extent of the country, to assist in the building of the railway and settlement of the country. On the completion of the railway through any section, the telegraph may then be reconstructed under new arrangements.

14th. In the advertisement the sections are placed in the order in which parties tendering may propose to finish the erection of the telegraph, and they are at liberty to make a distinct proposal for each separate section or for the whole line.

15th. The whole of the section between Lake Nipissing and Fort Garry is wooded, with the exception of about 30 miles of prairie east of the Red River.

16th. Between Fort Garry and Fort Pelly the country is partly wooded and partly prairie, the exact proportions are not yet known.

17th. Between Fort Pelly and Edmonton the country is prairie.

18th. Between Fort Edmonton and the telegraph system in British Columbia the country is generally wooded, although some mixed prairie and woodland is met west of Fort Edmonton, as well as unwooded bunch grass land in portions of the central plateau of British Columbia.

19th. In the valley of the River Thompson there is a growth of timber from 6 to 10 feet diameter. It will not be necessary to clear in that locality to the full width of 132 feet, it will be sufficient to clear and burn up the underbrush and lower branches of the trees, so as to render the telegraph secure from danger.

20th. The advertisement describes the 6th section as extending from Nepigon to Ottawa; but the object being to connect the Pacific telegraph line with the Seat of Government, it will be sufficient to make a connection with the system of Ontario at the most convenient point. It is reported that a telegraph line will be completed to the south-east angle of Lake Nipissing before the close of this season. The distance from Lake Nipissing to Nepigon is about 420 miles.

21st. It should be understood that Section No. 1 is embraced in Section No. 2, and both are covered by Section No. 3.

22nd. Tenders should give a distinct rate per mile for the line through wooded and prairie land respectively for the sections where both exist.

Department of Public Works, June 18, 1874.

No. 9.

The Earl of Dufferin to the Earl of Carnarvon.—(*Received July* 22.)

My Lord, *Quebec, July* 9, 1874.

I HAVE the honour to acknowledge the receipt of your Lordship's despatch of the 18th June,* in which you refer to the misunderstanding that has occurred between the Dominion Government and that of British Columbia, and in which you have made so considerate a suggestion in regard to the settlement of the dispute. In accordance with your instructions I have forwarded a copy of the despatch to the Lieutenant-Governor of British Columbia, and I have also communicated it to my Government. There has not yet been time for them to acquaint me with their view in regard to the friendly suggestions your Lordship is good enough to convey; but in connection with the subject matter to which the despatch under acknowledgment refers, I have the honour to inclose for your Lordship's information a memorandum of a Committee of Council on the points in dispute between the Dominion Government of British Columbia, together with a report by Mr. Edgar of his mission to that province, accompanied by copies of his correspondence with Mr. Walkem, the Attorney-General of British Columbia.

I have, &c.
(Signed) DUFFERIN.

Inclosure 1 in No. 9.

THE Committee of Council after due deliberation consider that the proposed mission of Mr. Walkem, Attorney-General of British Columbia, to England on behalf of the Government of that province, to complain to the Imperial Government of the non-fulfilment, by the Dominion Government, of the terms of union, and the telegraphic message of the Right Honourable the Secretary of State for the Colonies with reference to the said mission, in which his Lordship has most considerately offered his good offices in arriving at some understanding between British Columbia and the Dominion, render it desirable that a brief statement should be submitted showing the position of the question and the action taken by the present Government of Canada in relation thereto.

The Order in Council under which British Columbia was admitted into the Union, provided in the 11th section that:—

"The Government of the Dominiun undertake to secure the commencement simultaneously, within two years from the date of the Union, of the construction of a railway from the Pacific towards the Rocky Mountains, and from such point as may be selected, east of the Rocky Mountains towards the Pacific, to connect the seaboard of British Columbia with the railway system of Canada; and further to secure the completion of such railway within ten years from the date of the Union."

The passage of such a provision was very strongly opposed in Parliament, the Government of the day securing only a majority of ten in support of the measure. In order to induce even this majority to sustain them, the following resolution was proposed and carried by the Government.

"That the railway referred to in the Address to Her Majesty concerning the Union of British Columbia with Canada, adopted by this House on Saturday, the 1st April instant, should be constructed and worked by private enterprize, and not by the Dominion Government; and that the public aid to be given to secure that undertaking, should consist of such liberal grants of land, and such subsidy in money, or other aid, not increasing the present rate of taxation, as the Parliament of Canada shall hereafter determine."

The late Government were compelled, by their followers in the House, to adopt this Resolution regarding the taxation consequent on the obligation to build the railway, as the condition of obtaining their support. Even with this qualifying Resolution promised the section respecting the railway was carried, but by a majority of ten, the usual majority being from fifty to seventy.

It is impossible to conceive how such terms could ever have been proposed, as it was quite clear to every person that they were incapable of fulfilment, especially as the British Columbia Legislature never asked such extravagant terms. The clause of the terms adopted by that body, having reference to the railway, was as follows:—

* No. 6.

"Inasmuch as no real union can subsist between this Colony and Canada, without the speedy establishment of communication across the Rocky Mountains by coach-road and railway, the Dominion shall, within three years from the date of Union, construct and open for traffic such coach-road from some point on the line of the Main Trunk Road of this Colony to Fort Garry, of similar character to the said Main Trunk Road; and shall further engage to use all means in her power to complete such railway communication at the earliest practicable date; and that surveys to determine the proper line for such railway shall be at once commenced, and that a sum of not less than 1,000,000 dollars shall be expended in every year from and after three years from the date of Union, in actually constructing the initial sections of such railway from the seaboard of British Columbia, to connect with the railway system of Canada."

Mr. Trutch, the Delegate of the British Columbia Government, present in Ottawa during the discussions on the terms of Union, expressed himself as follows, at a public meeting, in order to reassure those who were apprehensive of the consequences of so rash an assumption of such serious obligations:—

"When he came to Ottawa with his co-delegates last year, they entered into a computation with the Privy Council as to the cost and time it would take to build the line; and they came to the conclusion that it could be built on the terms proposed in ten years. If they had said twelve or eighteen years, that time would have been accepted with equal readiness, as all that was understood was, that the line should be built as soon as possible, British Columbia had entered into a partnership with Canada, and they were invited to construct certain public works; but he, for one, would protest against anything by which it should be understood that the Government were to borrow 100,000,000 dollars, or to tax the people of Canada and British Columbia to carry out those works within a certain time (loud cheers.) He had been accused of having made a very Jewish bargain; but not even Shylock would have demanded his pound of flesh, if it had to be cut from his own body (laughter and cheers)."

These expressions show very clearly that the terms agreed to were directory rather than mandatory, and were to be interpreted by circumstances, the essence of the engagement being such diligence as was consistent with moderate expenditure, and no increase in the then rate of taxation.

When the present Government assumed office in November 1873, the condition of affairs regarding the railway was as follows:—A sum of over a million of money had been expended in prosecuting the surveys, over one-half of which was spent in British Columbia, but the engineers had not been able to locate any portion of the line.

A Company, under the Presidency of Sir Hugh Allan, had been formed by the late Government to construct the line. That Company had undertaken to complete the railway for a grant of 30,000,000 of money, and a grant of 20,000 acres of land per mile, retaining possession of the railway when built as their own property. The President and a delegation of the Directors of this Company had visited England to make financial arrangements to enable them to commence the work of construction. Their mission proved a total failure; so much so that soon after the return of Sir Hugh Allan and his co-delegates from England they relinquished their charter, and the Government repaid them the sum of 1,000,000 dollars, which had been deposited with the Receiver-General under the terms of the agreement.

The British Columbia Government had also complained that the commencement of the works of construction had not been made within the time provided; Sir John Macdonald, however, giving an informal opinion that the terms as to commencement were sufficiently and substantially kept by the active prosecution of the surveys.

This Government had, therefore, to provide some other method for the carrying out of the work, to endeavour to keep substantially good faith with British Columbia, to avoid further taxation, and, if possible, secure the consent and co-operation of the Government and people of British Columbia.

The new Bill, which has since become law, was prepared, which enables the Government (with the approval of Parliament) to get the work executed in one or several contracts, by a Company or Companies, which may or may not become proprietors of the line after it is constructed.

Mr. James E. Edgar was dispatched on a special mission to the Province of British Columbia, charged to confer with the Government, and also to visit all classes or parties, and ascertain their views, and to submit any proposal he might be directed to make to the local authorities, or to receive any proposition from them, and forward the same to Ottawa for consideration. A copy of the instruction sent to Mr. Edgar, and copies of certain telegrams already forwarded, and Mr. Edgar's Report, accompanying this Minute, explain sufficiently the nature and result of Mr. Edgar's mission. It was at

first expected that a good understanding would be arrived at, and, judging from circumstances, local political complications alone prevented some arrangement being come to.

The reason alleged for refusing to consider the proposition Mr. Edgar was finally directed to make, that Mr. Edgar was not accredited by this Government, was evidently a mere technical pretence. All that Mr. Edgar had to do was simply to present the proposals and ascertain on the spot whether they would be entertained by the Government. If satisfactory to them the Dominion Government would, as a matter of course, have had them sanctioned in due form, or, if any counter propositions had been made, instructions would have been given to Mr. Edgar concerning them.

The propositions made by Mr. Edgar involved an immediate heavy expenditure in British Columbia not contemplated by the terms of the Union, namely, the construction of a railway on Vancouver Island from the Port of Esquimault to Nanaïmo, as compensation to the most populous part of the Province for the requirement of a longer time for completing the line on the mainland. The proposals also embraced an obligation to construct a road or trail and telegraph line across the continent at once, and an expenditure of not less than 1,500,000 dollars within the Province annually on the railway works on the mainland, irrespective of the amounts which might be spent east of the Rocky mountains, being 500,000 dollars more than the entire sum British Columbia demanded in the first instance as the annual expenditure on the whole road.

In order to enable the Government to carry out the proposals which it was hoped the British Columbia Government would have accepted, the average rate of taxation was raised at the late session about 15 per cent., the Customs duties being raised from 15 per cent. to 17½ per cent., and the excise duties on spirits and tobacco a corresponding rate, both involving additional taxation exceeding 3,000,000 dollars on the transactions of the year.

The public feeling of the whole Dominion has been expressed so strongly against the fatal extravagance involved in the terms agreed to by the late Government, that no Government could live that would attempt, or rather pretend to attempt, their literal fulfilment. Public opinion would not go beyond the proposal made through Mr. Edgar to the Government.

There is also reason to believe that local political exigencies alone induced the Government of British Columbia not to entertain these proposals.

Since these propositions have been before the people, meetings have been held on Vancouver Island, and on the mainland, when the action of the Local Government was condemned, and a call made to accept the proposals offered. A very influential portion of the local press has also declared in favour of the course pursued by the Dominion Government.

It may not be out of place to mention that the action of the Dominion Government, regarding the graving dock, shows a desire on their part to do everything that can fairly be asked, whether there be an obligation or not under the terms of Union. The Dominion was only bound to guarantee the interest on 100,000*l.* sterling at 5 per cent. for ten years after the dock should be constructed. The Local Government found it impossible to obtain any contractor to undertake the work on the terms they were able to offer, based on the Dominion guarantee, and they solicited this Government to assist otherwise. This was agreed to and Parliamentary authority was obtained at the late session to enable the Governor-General in Council to advance 250,000 dollars in cash as the work progressed.

The report of Mr. Edgar will fully explain the object and effect of his mission as the agent of the Government. The Committee advise, therefore, that a copy of the said Report and Appendices be transmitted to the Right Honourable Lord Carnarvon, Secretary of State for the Colonies, with this Minute.

(Signed) A. MACKENZIE.

Inclosure 2 in No. 9.

Toronto, June 17, 1874.

To the Honourable the Secretary of State for Canada:

Sir,

I HAVE the honour to report that in the month of February last I was requested by the Canadian Government to proceed to the Province of British Columbia on their behalf. My mission was for the purpose of ascertaining the true state of feeling in the Province upon the subject of certain changes which were deemed necessary in the mode and the limit of time for the construction of the Canadian Pacific Railway, as well as to attend to any other business required, and to act as Canadian Agent in bringing about

some such feasible arrangement as might meet the general approval of the Local Government and the people of British Columbia, in place of the original conditions respecting the commencement and completion of the railway that are contained in the XIth Article of the terms of the Union. In that clause the language referring to railway construction is as follows:—"The Government of the Dominion undertake to secure the commencement simultaneously, within two years from the date of Union, of the construction of a railway from the Pacific towards the Rocky Mountains, and from such point as may be selected east of the Rocky Mountains towards the Pacific, to connect the seaboard of British Columbia with the railway system of Canada; and, further, to secure the completion of such railway within ten years from the date of the Union."

The views and policy of his Government upon the question of the Canadian Pacific Railway were communicated to me in several interviews by the Honourable Mr. Mackenzie; and I also had the benefit of conversations upon the same subject with many members of the Administration before I left Ottawa. On the eve of my departure I received from Honourable Mr. Mackenzie certain further instructions and directions for my guidance, which were contained in the following letter:—

"My dear Sir, "*Ottawa, February* 19, 1874.

"In your conversation with leading men in and out of the Government in Columbia it will be well to let them understand that, in proposing to take longer time than is provided for constructing the railway, we are actuated solely by an urgent necessity; that we are as anxious as possible to reach the object sought by all, viz., the construction of the road.

"We are, however, advised by our engineers that it is a physical impossibility to construct the road in that time, that is, within the time provided by the terms of Union, and that any attempt to do so can only result in very great useless expense and financial disorder. You can point out that the surveys for the Inter-colonial Railway were begun in 1864, and the work carried on uninterruptedly ever since, and although the utmost expedition was used it will still require eighteen months to complete it. If it required so much time in a settled country to build 500 miles of railway, with facilities everywhere for procuring all supplies, one may conceive the time and labour required to construct a line five times that length through a country all but totally unsettled.

"You will point out that it is because we desire to act in good faith towards Columbia that we at once avow our inability to carry out the exact conditions of the terms of Union that it would have been an easy matter for us to say nothing about, or carelessly to have assumed, the task of finishing the road before the month of July, 1881.

"Acting, however, from a desire to deal frankly and honestly with British Columbia, we considered what we could do to afford at the earliest possible date some means of travel across the continent preliminary to, and in advance of, a complete line of railway.

"You will point out that, as part of the Dominion, it is as much in their interests as in ours to pursue a careful judicious policy, also that in assuming a disposition, in spite of all reason, to insist on impossibilities, they are only setting at defiance all the rest of the Dominion and the laws of nature. That by insisting on 'the pound of flesh' they will only stimulate a feeling on the part of people generally to avoid in future giving anything but 'the pound of flesh.'

"You will remember that the Dominion is bound to reach the 'seabord of the Pacific' only, not Victoria or Esquimault, and you will convey an intimation to them that any further extension beyond the head waters of Bute Inlet, or whatever other portion of the sea waters may be reached, may depend entirely on the spirit shown by themselves in assenting to a reasonable extension of time, or a modification of the terms originally agreed to.

"You will also put them in remembrance of the terms they themselves proposed, which terms were assented to by their local Legislature, and point out that it was only by the insane act of the Administration here, which gave such conditions of Union to Columbia; that it could only have been because that Administration sought additional means of procuring extension of patronage immediately before the general elections, and saw in coming contracts the means of carrying the elections, that the Province obtained, on paper terms, which at the time were known to be impossible of fulfilment.

"If you find any favourable disposition among the leading men of the Province towards affording a generous consideration to the obvious necessity of giving a sufficient time for the pushing the road through Columbia, you will endeavour to ascertain what value they attach to such consideration. You will point out that the action of this

Government in the matter of the Graving Dock, and the agreement to advance in cash the balance of the amount of debt, with which Columbia was allowed to enter the Confederation, shewed that it was not considering itself bound to exact terms of Union, but was willing to go beyond them, when the necessities of the Province seemed to demand such action, and that we not unnaturally expect similar action on the part of the Province.

" In the event of your finding that there is a willingness to accept a proposition to extend the time for the building of the road, you will endeavour to obtain some proposition from them directly or indirectly, and communicate this to us by cypher telegraph at once.

" If on the other hand they make or indicate no proposition, you will telegraph to us what you think would be acceptable, but wait a reply before making a proposition.

" In the event of the leading men evincing a disposition to negotiate, you will endeavour to secure something like a combination of parties to sanction any proposition likely to be generally acceptable.

" It will be well that you should take some means of ascertaining the popular view of the railway question. This may be done by mingling among the people and allowing them to speak freely while you listen; remembering in taking impressions that your audience may be impressed by special local considerations rather than general questions.

" It will be well not to confine yourself to the vicinity of the Government Offices, or Victoria, but to cross to the mainland, and visit the people at Westminster, and other towns or villages on the lower reaches of the Fraser. It may be that you will find that there is a disposition manifested to negociate at Ottawa, in which case you will advise us of the existence of such a desire. You will take care not to admit in any way that we are bound to build the railway to Esquimault, or to any other place on the Island, and while you do not at all threaten not to build there, to let them understand that this is wholly and purely a concession, and that its construction must be contingent on a reasonable course being pursued regarding other parts of the scheme.

" It may be that the Local Government may desire to constitute the members for the Commons a delegation to discuss matters here; if this be the case you will still remain until we shall communicate with you.

" You will take every opportunity of noting the various matters connected with Dominion business in accordance with instructions that will be sent.

" I am, &c.

(Signed) " A. MACKENZIE.

" J. D. Edgar, Esq., Toronto."

When I received the above letter, I lost no time in starting upon my journey, and leaving Toronto, February 23rd, I arrived upon March 9th at Victoria, the capital of British Columbia.

On the day that I landed in Victoria, the Honourable Mr. Walkem, leader of the Local Government, called upon me, and I made him aware of the object of my mission. Upon the same day I handed him Honourable Mr. Mackenzie's letter of 16th February (Appendix A), also informing him that I had letters from his Excellency, the Governor-General, to his honour the Lieutenant-Governor, which were next day delivered. Very soon afterwards Mr. Walkem introduced me to his colleagues as the representative of the Canadian Government.

Upon my arrival in the Province, I found that an intense interest was manifested by all the population in whatever related to the question of railway construction. It is difficult at a distance to conceive the importance that is attached to the railway by the British Columbians. On account of the vast construction expenditure and the sparseness of the population, who would participate in the immediate benefits derivable from it, an interest of a direct and personal character is felt upon the subject.

The entire white population of the Province, according to the census of 1870, was 8,576 souls. Of this number there were upon the mainland 3,401, and upon Vancouver Island 5,175. The white population to-day has probably increased to 10,000. With the exception, perhaps, of the gold miners, who are confined to the mainland, there is no class in the province that would not derive immediate personal advantages from the railway construction expenditure. Those in business, in trade, and in agriculture would feel the stimulus instantly, while those of means and leisure would be enriched by the increase in the value of their property.

The circumstances of the early settlement of the province gave it a population of peculiar intelligence; and the fact that most of the rougher kind of labour is performed

by Chinamen and Indians, has afforded in an especial way to the people of Victoria, the provincial metropolis, leisure and opportunity for the fullest discussion of this great question of the day. Their keen intelligence and zeal in public affairs suggests a parallel in the history of some of the minor States of ancient Greece or Italy. Although a strong feeling of jealousy of the greatness of Victoria undoubtedly exists in parts of the mainland, yet that town is the chief centre of public opinion. Its population is almost equal to the whole of the rest of the Province, and in its midst are the head-quarters of Government, of the Courts, of the Churches, and of trade.

Within three miles there is the fine harbour of Esquimault, with its arsenal and British ships of war.

To Victoria the question of the location of the railway terminus is all important, because there is nothing in the terms of Union which settles that there shall be any portion of the line upon Vancouver Island; a revocable Order in Council, and the intrinsic merits claimed for the Island location, are the grounds upon which they hoped to secure the terminus at Esquimault. When it became well understood that the surveys were not yet so far advanced as to warrant the Canadian Government in fixing the permanent route and western terminus of the railway, it was strongly urged upon me by many persons in Victoria that the construction of a line of railway should be at once undertaken by the Dominion from the harbour of Esquimault to the port of Nanaïmo, on the east coast of Vancouver Island, a distance of about seventy miles. It was argued that at whatever point upon the mainland the Pacific Railway might be brought to the coast, a steam ferry thence to Nanaïmo might be established, and would render this portion of railway a means of connection with Esquimault, which is said to be the finest harbour upon the shores of the Northern Pacific. It was also insisted that from its opening there would be a considerable and profitable traffic over this line in the carriage of coal to Esquimault from the mines of Nanaïmo and Departure Bay. Moreover it was contended that in view of the admitted impossibility to complete the construction of the trans-continental railway within the time originally limited, some substantial concessions should be made to the people of the Island as compensation for their disappointment and prospective losses.

A contention similar to the last mentioned one was also pressed upon me warmly by leading men of the mainland, who considered that they were now entitled to have some definite understanding arrived at, not so much in regard to the ultimate completion, as to the early, vigorous, and continuous construction of the railway upon the mainland.

It was represented that those engaged in agriculture and stock-raising in the interior parts of the country, were almost without a market for their produce, partly because the gold miners were leaving in considerable numbers, and partly for the reason that in anticipation of railway construction they had raised more crops than usual. The great distance to the coast, and the stupendous mountain-ranges to be traversed, prevented them from getting the bulky products of their land to the island markets of Victoria or Nanaïmo.

Being familiar with the difficulties to be met with by engineers in seeking for a railway route through their country, the mainland people were not disposed to blame the Dominion for insisting upon further time and surveys before fixing the location. Their immediate necessities also induced them to attach more importance to the securing of an early and steady expenditure amongst themselves than to the maintaining of any arbitrary time limit for completion; while they also expressed their perfect appreciation of the argument that a vigorous expenditure of itself involves an accomplishment of the work within a reasonable period.

In the Provincial Constitution of British Columbia, the working of representative institutions and responsible Parliamentary Government may be studied in a simple form. The system is elaborated out of, perhaps, slender materials, but has been courageously fashioned after the model of the British Constitution. The people are represented by a House of twenty-five members, of whom thirteen are elected from the mainland, and twelve from the island. In this House sit the Ministers of the Crown, four in number, two being island Members, and two from the mainland. The deliberations are presided over by a Speaker; and due respect for the dignity of the Assembly is maintained by a Serjeant-at-arms.

Although I had not the fortune to be in the country when the House was in Session, I was able to discover among the gentlemen who hold seats, a considerable number of much experience, and somewhat above the average intelligence of Provincial Legislators. To those accustomed to older Canadian constituencies, each with populations varying from 15,000 to 30,000 souls, it is somewhat novel to see the smallness of electoral

districts in British Columbia. Yet it would be quite unfair to fix the number of electors as the standard of intelligence of the representative, for one of the ablest of the Provincial Ministers, after an exciting contest at the last election, succeeded in polling but sixteen votes in his constituency, whilst his opponent suffered a decisive defeat, having polled exactly half that number.

The Session of the Provincial Legislature had terminated on the 2nd March, a week before my arrival; and the House had unanimously agreed to a Resolution upon the subject of the Eleventh or Railway Clause, in the terms of Union with the Dominion, which was calculated to have an important bearing upon all negotiations with the local Government for a change in that clause. The language of the Resolution is as follows:—"That in view of the importance of the Railway Clause of the terms of Union between Canada and British Columbia being faithfully carried out by Canada, this House is of opinion that no alteration in the said Clause should be permitted by the Government of this Province, until the same has been submitted to the people for their endorsation." When I ascertained that this Resolution had been passed, that the Provincial Parliament had yet more than a year to run, and that the Ministry had in it a sufficient working majority, it at once became apparent that any proposals to alter the Railway Clause could possess few attractions in the eyes of the party in power. While prepared to admit that the Province would be most reasonable, and would not be disposed to insist at all upon the original time limit for completion, yet Members of the Administration, looking at it from their own point of view, naturally urged that this was a peculiarly unfortunate time to seek any alterations, I also discovered that the first Act of the Provincial Statute-Book of 1873-74, contained elements of danger to the continued harmony between the General and Local Governments.

This Act became necessary to authorize the Provincial to receive from the Dominion Government the large sums of money, both for the Esquimault Graving Dock, and for other public works which the Local Government petitioned the Dominion Government to advance, and which requests the latter complied with as concessions to the Province in excess of what could be claimed under Articles 2 and 12 of the Terms of Union. A saving clause or proviso was inserted in this Act, containing very strong language concerning the rights and wrongs of British Columbia as regards the railways, adding, "This Act shall not have any force or effect unless the above proviso be inserted, in the same words, in any Act of Parliament of Canada, which may be passed for the purposes of this Act."

A profound anxiety was at once manifested by Mr. Walkem and his colleagues to ascertain, through me, if the Canadian Ministry would propose to Parliament to adopt the words of this proviso. When I sought to get from them some proposals or suggestions as to their opinion of the concessions that should be made to British Columbia, in consideration of a change in the Railway Terms, I was continually met by an urgent inquiry as to what was to be done about that clause. As early as the 16th of March, I was informed by telegram, that the Dominion Government would not adopt the language of the proviso in their Bill, but would make the concessions as originally agreed, and without conditions affecting the Railway Terms. The announcement of this was received by the Local Ministers with alarm and disappointment; and it afterwards became still more difficult to get a satisfactory discussion of an alteration of Railway Terms with any of them. Orders in Council were passed by the Local Government upon the subject, and I was continually urged to press upon the Dominion Government the anxiety of the Provincial Ministry for the adoption of the saving clause; and I took many opportunities of doing so. This pressure continued, without intermission, until the 25th of April, when, at the request of Mr. Walkem, I sent a despatch to Mr. Mackenzie on behalf of the former, and in his own language, urging the adoption of the saving clause.

When, according to instructions, I endeavoured to ascertain from Local Ministers if their unwillingness to submit proposals as to the railway to the people arose entirely from our refusal to adopt the saving clause, I found that even such a concession would not induce them to bring about an appeal to the people.

According to instructions received, it was my aim, from the very first, to take every means of ascertaining the popular view of the railway question. Indeed, when it was understood that the Canadian Government had delegated me upon this and general matters, the politeness and hospitable attention of all classes soon rendered it an easy matter to form some estimate of public opinion. All were as willing to communicate, as I was anxious to receive, their various views and information. I paid two brief visits to the Mainland, meeting with people of New Westminster, Hope, Yale, and some few other places; and I was so fortunate as to meet, at one time or another, nearly

all the members of the Local Legislature, and many other persons of local prominence from the Mainland.

The Lieutenant-Governor and the Honourable Captain Hare, Senior Naval Officer at Esquimault, kindly afforded me an opportunity of visiting the east coast of the island in company with them on board Her Majesty's ship "Myrmidon."

In discussing the question of the time for the completion of the railway, I elicited a very general expression of opinion that there was no great importance attached to any particular period for completion, but that serious disappointment had been felt at the failure to commence the work of actual construction by July of last year. Much anxiety was felt for an announcement of the policy of Canada upon the subject of the railway, and an extreme desire prevailed to have a definite understanding arrived at, as to what the Province could expect in place of the original railway terms which were all but universally admitted to be incapable of literal fulfilment.

The public agitation in Victoria of February last might have been mistaken for a movement to insist upon "the terms, the whole terms, and nothing but the terms," or to seek some disloyal alternative. Indeed, a portion of the community who did not sympathise with the excitement so interpreted it. Yet I was assured by the leaders of that agitation that no such motives or intentions influenced them. The people had been aroused by what were deemed suspicious circumstances to fear that efforts would be made, or were being made, to secure from the Local Government an agreement to change the railway terms without a submission to the people who had directly sanctioned the original terms. The local contradictions had scarcely been accepted as satisfactory upon this point, but my denial of it on the part of the Ottawa Government, coupled with the announcement that the latter would not seek to secure any alteration without the sanction of the people of the Province, set that difficulty very much at rest.

Notwithstanding the attitude that was assumed by the Provincial Government against the submission of a proposal, or the opening of negotiations to alter the railway terms, it was quite apparent that popular feeling all over the Province was strongly in favour of some definite settlement being arrived at upon the question. The notorious and admitted failure of the original scheme of railway construction had unsettled the business of the country, and the whole community, including even those who would have been the most exacting in bargaining with Canada for new terms, were anxious to have a proposal made, and to have a full opportunity for discussing and accepting or rejecting it.

I felt, therefore, that I should take an early opportunity of arriving at the views of the Local Government upon the subject. I was given an appointment by Mr. Walkem in the first week of April, and then confidentially discussed with his Ministry the whole question of alteration in the railway terms. I may mention that, upon this occasion, no difficulty was raised as to my authority to represent the General Government.

At this time there was considerable irritation displayed by Ministers upon the subject of the saving clause before alluded to; they would not admit any necessity for a present settlement of the railway question, but still persisted that next year, or some future time, should be awaited for the making of any such propositions; and they were particularly careful to avoid saying what concessions, in their opinion, would be acceptable to the Province, in lieu of the original terms.

The attitude of the Local Ministry rendered it more important than ever that the popular feeling should be accurately ascertained, and it was my aim to discover it by unreserved discussion with as many men as possible of the different parties and localities.

It was now quite apparent that the Local Ministers were determined to be obstructive, and it became all the more necessary to satisfy the people in so far as their views were found to be reasonable. After receiving from me the best information I could supply, Honourable Mr. Mackenzie directed me to make the Provincial Government certain proposals which were so arranged as to give large and certain advantages to the Mainland equally with the Island, and on the 6th of May I was instructed to put them formally in writing and give them to the Local Premier, and a copy to the Lieutenant-Governor. Upon the 8th May I had prepared, and I read over to Mr. Walkem, the letter of that date, containing the proposals (Appendix B), and upon the following day I handed it to him, and furnished a copy to his Honour the Lieutenant-Governor as directed, accompanied by a short note (Appendix C). I had made arrangements for another visit to the Mainland to ascertain something more of the feeling there while the Provincial Government were having the proposal under consideration.

Before sailing for New Westminster, however, I received the letter from Mr. Walkem

(Appendix D), in which he raised objections to recognize me as the Agent of the General Government.

It struck me as so peculiar a communication on Mr. Walkem's part, after he and his colleagues had recognized me as such Agent almost every day for two months, that I felt it would be better not to be too hasty in accepting that as a serious and final reply to the proposals, but to avoid the lapse of a few days to be occupied by me in visiting New Westminster, Burrard's Inlet, Yale, and some other places on the Mainland. Upon returning to Victoria, on Saturday, 16th May, I was waited upon by a deputation of leading gentlemen, connected with both sides of local politics, who informed me that it had been announced in the House of Commons at Ottawa by the Honourable Mr. Mackenzie, that proposals had been made on behalf of his Ministry, through myself, to the Provincial Government, as to the alteration of the railway terms, and yet that it was denied by members of the Local Ministry, and by their newspaper organ, that any proposals whatever had been made.

They represented that the popular feeling was very much excited upon the subject, and that the people were anxious to have the earliest opportunity of considering and deciding upon the question, and I was asked to inform them whether such proposals had been made. Upon receiving an affirmative reply, they took their leave, and shortly afterwards, as the intelligence spread, considerable excitement was manifested at the treatment the proposals were receiving at the hands of the Local Ministers. In order to afford Mr. Walkem another opportunity to reply to the proposals, or to consider them, if he were at all desirous of doing so, I again addressed him, and in a letter of 18th May (Appendix E), endeavoured to point out that he could not ignore the communication of the 8th May, and reiterated the request, on behalf of the Government of Canada, that the proposals should receive the consideration to which they were entitled. In reply to this, I received the letter (Appendix F) ; and upon the 19th May, under directions from the Honourable Mr. Mackenzie, I left Victoria upon my return journey, without any further official communication with the Local Ministry.

I may be permitted to mention that his Honour the Lieutenant-Governor, throughout the whole of my visit, was always most obliging in giving me, upon all public questions, very full information, which his large experience in the Province rendered of the highest value. He also manifested an earnest wish to see a definite and amicable settlement of the Railway Question speedily arrived at between the General and the Provincial Governments.

In accordance with the direction contained in the last paragraph of the Honourable Mr. Mackenzie's letter to me of the 19th February, I took every opportunity during my stay in British Columbia of noting various matters connected with Dominion business and interests in several despatches to Heads of Departments, as well as in verbal communications with Ministers, I have already called attention to some important subjects of that kind ; and I propose to have the honour of communicating in separate reports or despatches upon several other points of interest and importance connected with Dominion affairs in the Pacific Province.

I have, &c.
(Signed) J. D. EDGAR.

Appendix (A).

Dear Sir. *Ottawa, February* 19, 1874.

ALLOW me to introduce Mr. James D. Edgar, of Toronto, who visits your Province on public business for the Government. Mr. Edgar will confer with yourself and other Members of the Government of Columbia on the questions lately agitating the public mind in Columbia, and will be glad to receive your views regarding the policy of the Government on the construction of the railway.

But for the meeting of Parliament in four weeks, some Members of the Government would have visited your province, but Mr. Edgar, as a public man, s well known here, and fully understands the questions he will discuss with you.

I need not, I am sure, assure you of my sincere desire to do all I can to not only act justly but generously to Columbia.

It is in your interest and in the interest of the Dominion that we should both act with a reasonable appreciation of difficulties which are unavoidable, and devise means to remove them or overcome them.

We have induced Mr. Edgar to go to Columbia, as we thought you would prefer a full Conference with an agent to a tedious and possibly unsatisfactory correspondence.

I am, &c.

(Signed) A. MACKENZIE.

Hon. G. A. Walkem, Attorney-General,
Victoria, British Columbia.

Appendix (B).

Victoria, British Columbia, May 8, 1874.

Honourable Geo. A. Walkem, M.P.P., Attorney-General, &c., &c.:

Sir,

I HAVE the honour to inform you that I have been instructed by the Premier of Canada to make you aware of the views of his Administration upon the subject of the construction of the Canadian Pacific Railway, in order that British Columbia may have full opportunity of considering and deciding upon a question so closely affecting her material interests. The scheme originally adopted for the carrying out of this work has, for a variety of reasons, proved unsuccessful, and to devise a plan for its more certain accomplishment, has been the aim of the Dominion Cabinet. The chief difficulty to be encountered in attempting to carry out the existing system of construction, is to be found in the stipulation as to completion of the railway by the month of July 1881. In proposing to take a longer time for constructing the railway, the Canadian Government are actuated solely by an urgent necessity. They are advised by their engineers that the physical difficulties are so much greater than was expected, that it is an impossibility to construct the railway within the time limited by the terms of Union, and that any attempt to do so can only result in wasteful expenditure and financial embarrassment. It is because they desire to act in good faith towards British Columbia, that the Canadian Ministry at once avow the difficulty of carrying out the exact terms of Union, whilst they have no desire to avoid the full responsibility of Canada to complete the railway by all means in her power, and at the earliest practicable date.

The 11th Article of the terms of Union embodies the bold proposition that the railway should be commenced in two, and completed in ten years, from the date of Union, to connect the sea-board of British Columbia with the railway system of Canada. Feeling the impossibility of complying with this time limit for completion, the Government is prepared to make new stipulations, and to enter into additional obligations of a definite character for the benefit of the Province. They propose to commence construction from Esquimault to Nanaïmo immediately, and to push that portion of railway on to completion with the utmost vigour and in the shortest practicable time.

The engineering difficulties on the mainland have unfortunately turned out to be so serious that further surveys must necessarily be made before the best route can be determined upon. The Government have already asked Parliament for a large sum for the purpose of carrying on these surveys, and no expenditure will be spared to achieve the most speedy and reliable selection of a permanent location of the line upon the mainland. It is useless to propose an actual construction being undertaken before the location has been determined upon; but, in order to afford as much benefit from the works of construction from the very first as can possibly be derived by the people of the interior, the Government would immediately open up a road, and build a telegraph line along the whole length of the railway in the Province, and carry telegraph wire across the Continent. It is believed that the mere commencement to build a railway at the sea-board, as stipulated for in the existing terms, would give but little satisfaction to the producers living on the east side of the Cascade Mountains, who would be unable, without a road being first constructed, to find a market all along the whole extent of the railway wherever construction was progressing. It would then be the aim of the Government to strain every nerve to push forward the construction of the railway; and they would endeavour at the same time so to arrange the expenditure, that the legitimate advantages derivable from it would, as much as possible, fall into the hands of our own producers. In addition to constructing the road to facilitate transport along the located line, they are anxious to avail themselves of the large supplies of all kinds of provisions now existing, or capable of being produced, in the interior; and would proceed from the very first with all the works of construction in that portion of the country that their engineers could sanction.

It is to be observed that, while the terms of Union contemplated the completion of the whole railway within a certain number of years, they made no provision for any certainty of expenditure in any particular time, or in any particular portion of the line. To predicate the highest expenditure, which in any one year might be warranted in any particular portion of a great work like this, is certainly difficult; and it is still more difficult to arrive at the lowest fixed annual sum which, in every year and under all circumstances, might be judiciously expended as a minimum in local construction. To a country like British Columbia, it is conceded, however, to be an important point that not only the prompt and vigorous commencement, but also the continuous prosecution of the work of construction within the limits of the Province should be guaranteed.

In order, therefore, to secure an absolute certainty in this direction, and although the length of the line falling within the Province is estimated at only about one-fifth of the whole length, the Dominion Government are disposed to concede to British Columbia that the moment the surveys and road in the mainland can be completed, there shall be in each and every year, and even under the most unfavourable circumstances, during the construction of the railway, a minimum expenditure upon works of construction within the Province of at least 1,500,000 dollars. That this will secure the continuous progress of the works in the Province without any intermission is quite apparent; and it must also be perfectly clear that so large an annual sum could not be expended by any Dominion Administration in a remote district without holding out to the country some early prospect of a return for it, and at the same time showing that they were proceeding with the works with sufficient rapidity to bring the investment into an early condition to earn something. In reference to this point, I may be permitted to refer to the fact that the Delegates from British Columbia who negotiated the terms of Union, were instructed by the Provincial Legislature to accept an undertaking from Canada to build the railway with a guaranteed annual expenditure in the Province upon construction of 1,000,000 dollars, to begin at the end of three years after Union. We must assume that this guarantee of continuous construction was only abandoned by the Delegates upon a conviction of both the sincerity and feasibility of the offer of early completion that was made to them.

I trust that the proposals of the Dominion Cabinet, which I have sketched above, will be considered and accepted by British Columbia, as an earnest effort on the part of the former to carry out the spirit of the obligations to the Province.

The leader of the Canadian Government has instructed me to place these matters before you, as leader of the Provincial Administration, and, at the same time, to furnish a copy to his Excellency the Lieutenant-Governor.

The substance of these proposals has been sent to me by telegraphic cypher, and based upon that I have the honour of communicating them to you. The Dominion Government would be glad to have the consideration of this proposal entertained by your Administration, and to learn the conclusion of the Government of British Columbia upon the subject.

I have, &c.
(Signed) J. D. EDGAR.

Appendix (C).

Victoria, British Columbia, May 9, 1874.

His Excellency the Honourable Joseph W. Trutch, Lieutenant-Governor of British Columbia:

Sir,

I HAVE the honour to inform your Excellency, that in accordance with instructions from Honourable Alexander Mackenzie, leader of the Canadian Government, I have submitted to the Honourable G. A. Walkem, as leader of your Ministry, the views of the former upon the question of the Canadian Pacific Railway, with a view to the relaxation of the terms of Union so far as regards the time limited for the completion of the railway. I was at the same time instructed to furnish, for your Excellency's information, a copy, which I now have the honour to inclose, of the communication addressed by me to your Minister upon that subject.

I have, &c.
(Signed) J. D. EDGAR.

Appendix (D).

Sir, *Attorney-General's Department, Victoria, May* 11, 1874.

I HAVE the honour to acknowledge the receipt on Saturday, the 9th instant, of your letter of the previous day's date.

In reply to your request that I should submit your proposals for a change in the railway clause of the terms of the Union to the Local Administration for their consideration and acceptance, I have the honour to inform you that I am not in a position to advise his Excellency the Lieutenant-Governor in Council to treat such proposals officially, nor can I tender such advice until I shall have been informed that you have been specially accredited to act in this matter as the agent of the General Government, and that they will consider your acts or negotiations in the matter binding upon them.

I have, &c.

(Signed) G. A. WALKEM, *Attorney-General.*

James D. Edgar, Esq., Victoria.

Appendix (E).

Victoria, May 18, 1874.

Honourable G. A. Walkem, Attorney-General, &c., &c.:

Sir,

I HAVE the honour to acknowledge having received your letter of the 11th instant just before leaving for the mainland.

I am sure you cannot have forgotten that letters from the highest dignitaries at Ottowa, which have been long ago delivered by me, both to his Excellency the Lieutenant-Governor and to yourself, have informed you that I came to this Province on behalf of the Dominion Government, and possessing their entire confidence. In my communication of the 8th instant, I stated most distinctly that I was making the proposals contained in it by the instructions and on behalf of the Canadian Ministry. You have, however, done me the honour of assuming that my statement was incorrect, and that I am acting without authority or instructions. I can afford to pass over without notice the personal insinuations, but I must most strongly protest against such extraordinary treatment of a document which emanates from the Government of Canada, upon a subject of such deep and pressing moment to British Columbia.

I have, therefore, the honour to request that the proposals of the Dominion Government may receive the consideration at the hands of the Provincial Administration to which such communications are entitled, and which the extreme importance of the subject demands.

I have, &c.

(Signed) J. D. EDGAR.

Appendix (F).

Sir, *Victoria, May* 18, 1874.

IN reply to your letter of this date, I must express my surprise and regret that you should have taken umbrage at the contents of my letter of the 11th instant.

Mr. Mackenzie in an unofficial, and in his only, letter to me respecting your visit, has expressly narrowed and confined the object of your mission to the holding of a personal interview with my colleagues and myself in order that "our views regarding the policy of the Governmeut on the construction of the railway" should be ascertained without "tedious and possibly unsatisfactory correspondence." I quote his words. These things having been done, the special aim desired, I may be permitted to think, has been attained by Mr. Mackenzie.

When, however, you proceed further and propose changes to this Government of the gravest importance to the Province, I must be pardoned for considering it my duty in my public capacity to ask for your official authority for appearing in the role of an Agent contracting for the Dominion of Canada. This information I have not yet received.

I have, &c.

(Signed) GEO. A. WALKEM.

James D. Edgar, Esq.

No. 10.

Mr. Walkem to the Earl of Carnarvon.

My Lord, *Cox's Hotel, Jermyn Street, July* 28, 1874.

I HAVE the honour to inform your Lordship of my arrival last evening in London.

The object of my mission, as a Delegate from the Government of the Province of British Columbia to Her Majesty's Government has, so I have been informed, already been fully explained to your Lordship.

It, therefore, only remains for me to request your Lordship to honour me with a personal interview at the earliest hour which may prove convenient.

I have, &c.

(Signed) GEO. A. WALKEM, *Attorney-General and President, Executive Council of Government of British Columbia.*

No. 11.

Colonial Office to Mr. Walkem.

Sir, *Downing Street, July* 29, 1874.

IN reply to your letter of the 28th instant,* I am directed by the Earl of Carnarvon to inform you that he will be happy to see you at this office at 3·20 P.M. on Friday next, the 31st instant.

I am, &c.

(Signed) R. H. MEADE.

No. 12.

Petition to the Queen from the Committee of the Executive Council of the Province of British Columbia.—(Received July 31.)

(Delivered to the Earl of Carnarvon by Mr. Walkem.)

To the Queen's Most Excellent Majesty.

Most Gracious Sovereign,

WE, your Majesty's most dutiful and loyal subjects, the Committee of the Executive Council of the Province of British Columbia, in Council assembled, humbly approach your Majesty, for the purpose of representing :—

1. That, prior to the 20th day of July, 1871, British Columbia was a Crown Colony, having a Legislative Council, partly nominated by the Crown, and partly chosen by the people :

2. That, by section 146 of the "British North American Act, 1867," provisio was made for the Union of British Columbia with the Dominion of Canada :

3. That, during the years 1868 and 1869, the subject of Union was much discussed in British Columbia, both in the Legislature and throughout the Colony ; and a considerable conflict of opinion existed in relation to the question :

4. That, in obedience to your Majesty's commands, contained in a despatch (Appendix A) of the 14th day of August, 1869, from your Majesty's Principal Secretary of State for the Colonies to the Governor of British Columbia, the Governor in Council framed the "Proposed Terms of Confederation" (Appendix B), and in the month of February, 1870, submitted them to the Legislative Council, by whom they were approved :

5. That these Terms had not been directly submitted to the people for their sanction ; and the Council that approved of them was at the time composed of thirteen members appointed by the Crown, and nine chosen by the people.

6. That the "Proposed Terms" were presented for consideration, through Delegates, to the Honourable the Privy Council of Canada, as the basis of an agreement for Union :

7. That, after full discussion between the Delegates of British Columbia and the

* No. 10.

Committee of the Privy Council, it was mutually agreed that the said terms should be materially modified; and other Terms, hereinafter called the "Accepted Terms," (Appendix C), were substituted for those proposed; and such "Accepted Terms" commonly known as the "Terms of Union," now form the basis of Union between British Columbia and the Dominion:

8. That the main difference between the "Proposed Terms" and the "Accepted Terms" consists in the substitution and insertion of Article 11 in the "Accepted Terms" for Article 8 of the "Proposed Terms," which Articles are herewith submitted:—

Article 8 *of "Proposed Terms."*

"8. Inasmuch as no real union can subsist between this Colony and Canada without the speedy establishment of communication across the Rocky Mountains by coach road and railway, the Dominion shall, within three years from the date of Union, construct and open for traffic such coach road from some point on the line of the main trunk road of this Colony to Fort Garry, of similar character to the said main trunk road, and shall further engage to use all means in her power to complete such railway communication at the earliest practicable date; and that surveys to determine the proper line of such railway shall be at once commenced; and that a sum of not less than 1,000,000 dollars shall be expended in every year, from and after three years from the date of Union, in actually constructing the initial sections of such railway from the seaboard of British Columbia, to connect with the railway system of Canada."

Article 11 *of "Accepted Terms."*

"11. The Government of the Dominion undertake to secure the commencement simultaneously, within two years from the date of Union, of the construction of a railway from the Pacific towards the Rocky Mountains, and from such point as may be selected, east of the Rocky Mountains, towards the Pacific, to connect the seaboard of British Columbia with the railway system of Canada; and further, to secure the completion of such railway within ten years from the date of the Union.

"And the Government of British Columbia agree to convey to the Dominion Government in trust, to be appropriated in such a manner as the Dominion Government may deem advisable in furtherance of the construction of the said railway, a similar extent of public lands along the line of railway throughout its entire length in British Columbia, not to exceed, however, twenty miles on each side of said line, as may be appropriated for the same purpose by the Dominion Government from the public lands in the North-West Territories and the Province of Manitoba. Provided, that the quantity of land which may be held under pre-emption right or by Crown grant within the limits of the tract of land in British Columbia to be so conveyed to the Dominion Government shall be made good to the Dominion from contiguous public lands; and provided, further, that until the commencement, within two years, as aforesaid, from the date of the Union of the construction of the said railway, the Government of British Columbia shall not sell or alienate any further portions of the public lands of British Columbia in any other way than under right of pre-emption requiring actual residence of the pre-emptor on the land claimed by him. In consideration of the land to be so conveyed in aid of the construction of the said railway the Dominion Government agree to pay to British Columbia, from the date of the Union, the sum of 100,000 dollars per annum, in half-yearly payments in advance."

9. That this substitution, affording assurance of *speedy railway communication* with the Eastern Provinces, was made to secure the acceptance of Confederation by the people of British Columbia:

10. That, it having been decided that the people of British Columbia should be directly consulted before the "Accepted Terms" became law, Your Majesty, in pursuance of the provisions of the "British Columbia Government Act, 1870," was graciously pleased, by an Order in Council of the 9th day of August, 1870, to so reconstitute the Legislative Council as to allow the electoral districts throughout the country to return a majority of members thereto:

11. That, under the new constitution of the Council, writs were issued for the election of members to serve therein, and the said "Accepted Terms" were duly submitted to the people for their consideration; and at the subsequent elections held to decide the question of Union, the provisions of Article 11 of the Terms of Union formed the main inducement to British Columbia to agree to enter into Confederation, and members were returned to support the adoption thereof:

12. That such "Accepted Terms" were, on the 23rd day of January, 1871, unanimously agreed to by the Legislative Council; and an humble Address to Your Majesty was at the same time passed, praying that Your Majesty in Council would be graciously pleased "to admit British Columbia into the Union or Dominion of Canada, on the basis of the terms and conditions offered to this Colony by the Government of the Dominion of Canada, which terms and conditions are those herein referred to as the "Accepted Terms:"

13. That similar Addresses to your Majesty on the same subject were passed by the Parliament of Canada, under the provisions of the 146th section of the "British North America Act, 1867:"

14. That, on the 16th day of May, 1871, your Majesty, in answer to the said Addresses, was graciously pleased to order and declare (Appendix D) that the Union between British Columbia and the Dominion should take effect on the 20th day of July, 1871—and British Columbia accordingly, became on that day, one of the Provinces of the Dominion of Canada, upon the basis of the "Accepted Terms," or Treaty of Union:

15. That, by Article 11 the Dominion undertook "to secure the commencement simultaneously, within two years from the date of Union, of the construction of a railway from the Pacific towards the Rocky Mountains, and from such point as may be selected, east of the Rocky Mountains, towards the Pacific, to connect the seaboard of British Columbia with the railway system of Canada; and further, to secure the completion of such railway within ten years from the date of the Union." And the Province, *in consideration thereof, and "in furtherance of the construction of said railway," agreed*, first—*to convey to the Dominion a belt of public land not exeeeding twenty miles in width on each side of the railway in British Columbia;* and, secondly—*to withdraw all its public lands from sale or alienation, except under stringent pre-emption laws, for a period of two years, ending on the 20th day of July*, 1873:

16. That, accordingly, immediately upon Union, all lands of the Province were withdrawn from sale or alienation:

17. That, the Dominion Government informed the Provincial Government, by despatch dated the 10th of June, 1873, and by an inclosed Order of the Privy Council, Appendix E F (based "on a Memorandum of the 29th of May, 1873, from the Chief Engineer of the Canadian Pacific Railway"), that "Esquimalt, in Vancouver Island," had been "fixed as the Terminus of the Canadian Pacific Railway," and that it had been decided that "a line of railway be located between the Harbour of Esquimalt and Seymour Narrows, on the said island;" and they requested the Provincial Government to convey to the Dominion Government "in trust, according to the 11th paragraph of the Terms and Agreement of Union, a strip of land twenty miles in width, along the eastern coast of 'Vancouver Island, between Seymour Narrows and the Harbour of Esquimalt.'"

18. That, on the 25th of July, 1873, the Minute of the Executive Council of British Columbia (Appendix G) relating to the conveyance of the land referred to, was passed and forwarded to Ottawa (Appendix H) on the following day; and the receipt thereof was acknowledged on the 26th August. 1873 (Appendix J):

19. That, by that Minute the Provincial Government declined to convey the land referred to, until railway construction should be commenced, as provided by Article 11 of the Terms of Union; but agreed to reserve the said belt (which is coloured red on the accompanying chart of Vancouver Island), being a tract of most valuable land—about 3,200 square miles in extent, abounding in vast mineral wealth, and easy of access from the sea,—and this land was accordingly reserved by Order in Council (Appendix K L) on the 30th June, 1873, and by public notice on the day following; and has been ever since reserved:

20. That, on the 11th September, 1873, the Dominion Government intimated their concurrence in the course thus pursued by the Provincial Government, and "submitted (Appendix M N) that so long as the land which is referred to, is not alienated from the Crown, but held under reservation . . . the object of the Government of the Dominion will be attained, that object being, simply, that when the railway shall come to be constructed, the land in question shall be at the disposition of the Government of the Dominion, for the purpose laid down in the 11th section of the Terms of Union with British Columbia:"

21. That, on the 22nd September, 1873, the Provincial Government respectfully urged (Appendix O P) the Dominion Government to define, by survey, the belt of land referred to, as its reservation was seriously retarding the settlement of Vancouver Island; but to this request no other reply than a mere acknowledgment (Appendix Q) was sent:

22. That, on the 25th of July, 1873, the Provincial Government, by Order in Council (Appendix R) strongly protested against the breach of the 11th Article, no attempt at construction having been made up to that date; and such protest was forwarded, in despatch, to the Honourable the Secretary of State, at Ottawa, on the following day (Appendix S):

23. That, in the month of August, 1873, the Dominion Government simply acknowledged (Appendix T) the receipt of the protest of the 25th of July, 1873:

24. That, on the 24th November following, the Government of the Province again drew the attention of the Dominion, by despatch and minute of the Executive Council (Appendix U, V), to the protests which had been forwarded and not replied to; and the Dominion Government was requested to state its railway policy for the information of the Provisional Legislature. To this the indefinite reply (Appendix W), and no other, was received:

25. That, on the 9th of February, 1874, the Legislative Assembly of British Columbia unanimously protested against the breach of Article 11 of the Terms of Union, and respectfully urged upon Canada "the absolute necessity of commencing the actual construction of the railway from the seaboard of British Columbia early in the present year" (Appendix X); and this protest was, on the recommendation of the Executive Council, forwarded to Ottawa in a despatch of 25th February, 1874 (Appendix Y), and the receipt thereof was duly acknowledged, but no response thereto has been received (Appendix Z):

26. That, in the month of February, 1874, the Honourable Mr. Mackenzie, the Premier of Canada, addressed the letter (Appendix AA) to the Honourable Mr. Walkem, the Attorney-General of British Columbia, introducing Mr. J. D. Edgar as a gentleman who would "confer" with, and ascertain the views of, the Members of the Government of British Columbia respecting railway policy; and this letter was followed by the correspondence, official telegrams, despatches, and Orders in Council set forth in Appendix AA, BB, CC, DD, EE, FF, GG, HH, JJ, KK, LL, MM, NN, OO, PP, QQ:

27. That the character and the substance of the correspondence, telegrams, and despatches may be briefly stated as follows:

On the 8th day of May, 1874, Mr. Edgar addressed a letter to Mr. Walkem (Appendix EE), setting forth the views of Mr. Mackenzie's Administration upon the Railway Clause (Article 11) of the Terms of Union, and making certain suggestions for a change thereof, with a request that they should be considered by the Provincial Government.

As these suggestions gravely affected the interests, both of the Dominion and the Province, and as Mr. Edgar was not accredited by the Dominion Government to make such proposals, it was necessary to ascertain how far they would be binding upon that Government. Accordingly, telegrams were sent, one (Appendix KK) by the Provincial Government to the Secretary of State, and the other (Appendix MM) by Mr. Walkem to Mr. Mackenzie. The only reply was a telegram from Mr. Mackenzie (Appendix LL), which stated that his letter to Mr. Walkem sufficiently indicated Mr. Edgar's mission; and that he had recalled Mr. Edgar, and was awaiting his return and reports. The inquiry, as to whether Mr. Edgar had power to bind the Dominion Government remained wholly unanswered.

28. That Mr. Edgar's letter to Mr. Walkem is made important by a telegram of the 8th June, 1874, from the Premier of Canada (Appendix OO), which states that that the proposals in Mr. Edgar's letter had been made "on behalf the Dominion Government," and that they were now withdrawn. To this telegram the Provincial Government in substance replied, that it was the first direct communication they had

received that those proposals were authoritative, and that it seemed remarkable that, by the same communication they should be withdrawn (Appendix QQ):

29. That in that letter the Dominion Government proposed "to commence the construction from Esquimalt to Nanaïmo immediately, and push that portion of the railway on to completion with the utmost vigour, and in the shortest practicable time," in consideration of British Columbia consenting to relinquish the definite term fixed in the Treaty of Union for the completion of the railway; and when "the surveys and a proposed waggon road on the mainland can be completed," to make "an annual minimum expenditure upon works of construction within the Province of, at least, 1,500,000 dollars;" and it further states that, "to a country like British Columbia, it is conceded, however, to be an important point, that not only the prompt and vigorous commencement, but also the vigorous prosecution, of the work of construction within the limits of the Province should be guaranteed:"

30. That the Dominion Government have no powers to expend public money in railway construction in British Columbia, except under authority of the "Canadian Pacific Railroad Act, 1874," which provides, *inter alia*, for the construction of a section viz., the fourth section of the said railway, to extend from the western terminus of the third section to some point in British Columbia on the Pacific Ocean:

31. That, unless Esquimalt on Vancouver Island be the western terminal point in British Columbia, on the Pacific Ocean, of the fourth section of the Canadian Pacific Railroad, the Dominion Government cannot expend any public money in the construction of a railway from such point, nor can they claim the reservation of the public lands on the east coast of Vancouver Island "for the purposes laid down in the 11th section of the Terms of Union:"

32. That the following is, as far as can be ascertained, an approximate statement of the exploratory surveys made:—

In 1871 and 1872 there were seven or eight parties engaged, and work was prosecuted with some vigour on the mainland of British Columbia.

In 1873 two parties left Victoria, as late as the 1st of July, for the interior, and returned in November, that is to say, having, exclusive of travelling time, been engaged in actual work for about three months only. To these parties may be added a third, which had wintered on the eastern boundaries of the Province.

In 1874 three parties only, exclusive of an explorer sent up the west coast, started from Victoria for interior about the 19th of May, when the spring was advanced.

33. That no surveys have been made between Esquimalt and Seymour Narrows, or in any other part of Vancouver Island:

34. That on the 4th May, 1874, the Premier of the Dominion Government declared, in his place in the Dominion House of Commons, that "there was no reason to believe" that it was possible to commence the construction of the railway in the Province this year (Appendix D D):

35. That on the 8th May, 1874, the Dominion Government made the offer of *immediate construction on the island*, as contained in Appendix E E., before referred to:

36. That on the 23rd of May, 1874, the Premier of Canada admitted, in his place in the Dominion House of Commons, that "they were quite aware of the terms of the agreement with British Columbia was violated" (Appendix R R):

37. That the preamble of the "Canadian Pacific Railway Act, 1874," shows that provision for the construction of this work is intended to be made by that Act only as far as can be effected without "further raising the rate of taxation," thus purporting to modify the obligation of Canada, under the Terms of Union, without the consent of British Columbia:

Your petitioners, therefore, humbly submit—

That British Columbia has fulfilled all the conditions of her agreement under the Terms of Union:

That the Dominion has not completed the necessary railway explorations and surveys; nor since 1872 has any effort at all adequate to the undertaking been made up to the present time:

That, notwithstanding the fact that on the 7th of June, 1873, by Order of the Privy Council, "Esquimalt" was "fixed" *as the point of commencement* on the Pacific, and it was decided that a line should "be located between that harbour and Seymour Narrows;" and, notwithstanding further, that a valuable belt of land along the line indicated has ever since been reserved by British Columbia, at the instance of the Dominion, and for the purposes, ostensibly, of immediate construction, the Dominion Government have failed and neglected to commence construction up to the present time:

That, although the Government of the Dominion admit that the agreement with British Columbia has been violated, and acknowledge that immediate construction might be commenced at Esquimalt, and active work vigorously prosecuted upon "that portion of railway" between Esquimalt and Nanaïmo, yet they virtually refuse to commence such construction unless British Columbia consents to materially change the railway clause of the Treaty:

That, in consequence of the course pursued by the Dominion, British Columbia is suffering great loss; her trade has been damaged and unsettled; her general prosperity has been seriously affected; her people have become discontented; a feeling of depression has taken the place of the confident anticipations of commercial and political advantages to be derived from the speedy construction of a great railway, uniting the Atlantic and Pacific shores of your Majesty's Dominion on the Continent of North America:

Your petitioners, therefore, humbly approach your Majesty, and pray that your Majesty may be graciously pleased to take this, our petition, into your Majesty's favourable consideration, in order that justice may be done to British Columbia.

And your petitioners, as in duty bound, will ever pray, &c.

On behalf of the Petitioners,

(Signed) GEO. A. WALKEM,

President of the Executive Council of British Columbia.

Victoria, British Columbia, June 15, 1874.

APPENDIX.

(A.)

Despatch from Earl Granville to the Governor of British Columbia, on Confederation.

(British Columbia.)

Sir, *Downing Street, August* 14, 1869.

IN my despatch of 17th of June, in which I communicated to you your appointment to the Government of British Columbia, I informed you that I should probably have occasion to address you on the question then in agitation of the incorporation of that Colony with the Dominion of Canada.

You are aware that Her Majesty's Government have hitherto declined to entertain this question, mainly because it could not arise practically till the Territory of the Hudson's Bay Company was annexed to the Dominion, but also, perhaps, in the expectation that the public opinion of British Columbia might have opportunity to form and declare itself.

I have now to inform you that the terms on which Rupert's Land and the North-West Territory are to be united to Canada, have been agreed to by the parties concerned, and that the Queen will probably be advised before long to issue an Order in Council which will incorporate in the Dominion of Canada the whole of the British Possessions on the North American Continent, except the then conterminous Colony of British Columbia.

The question therefore presents itself, whether this single Colony should be excluded from the great body politic which is thus forming itself.

On this question the Colony itself does not appear to be unanimous. But as far as I can judge from the despatches which have reached me, I should conjecture that the prevailing opinion was in favour of union. I have no hesitation in stating that such is, also, the opinion of Her Majesty's Government.

They believe that a Legislature selected from an extended area, and representing a diversity of interests, is likely to deal more comprehensively with large questions, more impartially with small questions, and more conclusively with both than is possible when controversies are carried on and decided upon in the comparatively narrow circle in which they arise. Questions of purely local interest will be more carefully and dispassionately considered when disengaged from the larger politics of the country, and at the same time will be more sagaciously considered by persons who have had this larger political education.

Finally, they anticipate that the interests of every Province of British North America will be more advanced by enabling the wealth, credit, and intelligence of the whole to be brought to bear on every part, than by encouraging each in the contracted policy of taking care of itself, possibly at the expense of its neighbour.

Most especially is this true in the case of internal transit. It is evident that the

establishment of a British line of communication between the Atlantic and Pacific Oceans, is far more feasible by the operations of a single Government responsible for the progress of both shores of the Continent, than by a bargain negotiated between separate, perhaps in some respects rival, Governments and Legislatures. The San Francisco of British North America would under these circumstances hold a greater commercial and political position than would be attainable by the Capital of the isolated Colony of British Columbia.

Her Majesty's Government are aware that the distance between Ottawa and Victoria presents a real difficulty in the way of immediate union. But that very difficulty will not be without its advantages if it renders easy communication indispensable and forces onwards the operations which are to complete it. In any case it is an understood inconvenience and a diminishing one, and it appears far better to accept it as a temporary drawback on the advantages of union than to wait for those obstacles, often more intractable, which are sure to spring up after a neglected opportunity.

The constitutional connection of Her Majesty's Government with the Colony of British Columbia is as yet closer than with any other part of North America, and they are bound on an occasion like the present, to give, for the consideration of the community and the guidance of Her Majesty's servants, a more unreserved expression of their wishes and judgment than might be elsewhere fitting.

You will, therefore, give publicity to this despatch, a copy of which I have communicated to the Governor-General of Canada, and you will hold yourself authorized, either in communication with Sir John Young, or otherwise, to take such steps as you properly and constitutionally can, for promoting the favourable consideration of this question.

It will not escape you, that in acquainting you with the general views of the Government, I have avoided all matters of detail on which the wishes of the people and the Legislature will of course be declared in due time. I think it necessary, however, to observe that the constitution of British Columbia will oblige the Governor to enter personally upon many questions, as the condition of Indian tribes, and the future position of Government servants, with which, in the case of negotiation between two responsible Governments, he would not be bound to concern himself.

I have, &c.
(Signed) GRANVILLE.

Governor Musgrave,
&c. &c. &c.

(B.)

"Proposed Terms."

CANADA shall be liable for the debts and liabilities of British Columbia existing at the time of Union.

2. The population of British Columbia shall, for the purpose of financial arrangements, be estimated at 120,000. British Columbia not having incurred debts equal to those of other Provinces now constituting the Dominion, shall be entitled to receive, by half-yearly payments in advance from the General Government, interest at the rate of 5 per cent. per annum on the difference between the actual amount of its indebtedness at the date of Union, and the proportion of the public debt of Canada for 120,000 of the population of Canada at the time of Union.

3. The following sums shall be annually paid by Canada to British Columbia for the support of the Local Government and Legislature, to wit:—

An annual grant of 35,000 dollars, and a further sum equal to 80 c. a head per

(C.)

"Accepted Terms."

Canada shall be liable for the debts and liabilities of British Columbia existing at the time of the Union.

2. British Columbia not having incurred debts equal to those of the other Provinces now constituting the Dominion, shall be entitled to receive, by half-yearly payments, in advance from the General Government, interest at the rate of 5 per cent. per annum on the difference between the actual amount of its indebtedness at the date of the Union, and the indebtedness per head of the population of Nova Scotia and New Brunswick (27,777 dollars), the population of British Columbia being taken at 60,000.

3. The following sums shall be paid by Canada to British Columbia for the support of its Government and Legislature, to wit: an annual subsidy of 35,000 dollars, and an annual grant equal to 80 c. per head of the said population of 60,000, both half-

"Proposed Terms."

annum of the population, both payable half-yearly in advance, the population of British Columbia being estimated as aforesaid at 120,000. Such grant equal to 80 c. a-head to be augmented in proportion to the increase of population, when such may be shown, until the population amounts to 400,000, at which rate such grant shall thereafter remain.

4. The Dominion shall guarantee interest at the rate of 5 per cent. per annum on such sum, not exceeding 100,000*l.*, as may be required for the construction of a first class graving dock at Esquimalt.

5. In addition to the other provisions of this resolution, Canada shall assume and defray the charges of the following services:—

a. Salary and allowances of the Lieutenant-Governor;

b. Salaries and allowances of the Judges and Officers of the Supreme Court and of County Courts;

c. The charges in respect of the Department of Customs;

d. The Postal Department;

e. Lighthouses, buoys, beacons, and lightship, and such further charges as may be incident to and connected with the services which, by the "British North American Act, 1867," appertain to the General Government, and as are or may be allowed to the other Provinces.

6. Suitable pensions, such as shall be approved of by Her Majesty's Government, shall be provided by the Government of the Dominion for those of Her Majesty's servants in the Colony, whose position and emoluments derived therefrom would be affected by political changes on the admission of this Colony into the Dominion of Canada.

7. The Dominion Government shall supply an efficient and regular fortnightly steam communication between Victoria and San Francisco by steamers adapted and

"Accepted Terms."

yearly in advance, such grants of 80 c. per head to be augmented in proportion to the increase of population, as may be shown by each subsequent decennial census, until the population amounts to 400,000, at which rate such grant shall thereafter remain, it being understood that the first census be taken in the year 1881.

4. The Dominion will provide an efficient mail service, fortnightly, by steam communication between Victoria and San Francisco, and twice a week between Victoria and Olympia; the vessels to be adapted for the conveyance of freight and passengers.

5. Canada will assume and defray the charges for the following services:—

a. Salary of the Lieutenant-Governor;

b. Salaries and allowances of the Judges of the Superior Courts and the County or District Courts;

c. The charges in respect to the Department of Customs;

d. The postal and telegraphic services;

e. Protection and encouragement of fisheries;

f. Provision for the Militia

g. Lighthouses, buoys, and beacons, shipwrecked crews, quarantine and marine hospitals, including a marine hospital at Victoria;

h. The geological survey;

i. The Penitentiary;

And such further charges as may be incident to and connected with the services which, by the "British North America Act of 1867," appertain to the General Government, and as are or may be allowed to the other Provinces.

6. Suitable pensions, such as shall be approved of by Her Majesty's Government, shall be provided by the Government of the Dominion for those of Her Majesty's servants in the Colony whose position and emoluments derived therefrom would be affected by political changes on the admission of British Columbia in the Dominion of Canada.

7. It is agreed that the existing Customs Tariff and Excise Duties shall continue in force in British Columbia until the railway from the Pacific Coast and the system of

"Proposed Terms."	"Accepted Terms."
giving facilities for the conveyance of passengers and cargo.	railways in Canada are connected, unless the Legislature of British Columbia should sooner decide to accept the Tariff and Excise laws of Canada. When Customs and Excise duties are, at the time of the Union of British Columbia with Canada, leviable on any goods, wares, or merchandizes in British Columbia, or in the other Provinces of the Dominion, those goods, wares, or merchandizes may, from and after the Union, be imported into British Columbia from the Provinces now composing the Dominion, or from either of those Provinces into British Columbia, on proof of payment of the Customs or Excise duties leviable thereon in the Province of exportation, and on payment of such further amount (if any) of Customs or Excise duties as are leviable thereon in the Province of importation. This arrangement to have no force or effect after the assimilation of the Tariff and Excise duties of British Columbia with those of the Dominion.
8. Inasmuch as no real Union can subsist between this Colony and Canada without the speedy establishment of communication across the Rocky Mountains by coach road and railway, the Dominion shall, within three years from the date of Union, construct and open for traffic such coach road from some point on the line of the Main Trunk Road of this Colony to Fort Garry, of similar character to the said Main Trunk Road; and shall further engage to use all means in her power to complete such railway communication at the earliest practicable date, and that surveys to determine the proper line for such railway shall be at once commenced; and that a sum of not less than 1,000,000 dollars shall be expended in every year, from and after three years from the date of the Union, in actually constructing the initial sections of such railway from the seaboard of British Columbia, to connect with the railway system of Canada.	8. British Columbia shall be entitled to be represented in the Senate by three members, and by six members in the House of Commons. The representation to be increased under the provisions of the "British North America Act, 1867."
9. The Dominion shall erect and maintain at Victoria, a marine hospital, and a lunatic asylum, either attached to the hospital or separate, as may be considered most convenient. The Dominion shall also erect and maintain a Penitentiary, or other principal prison, at such place in the Colony as she may consider most suitable for that purpose.	9. The influence of the Dominion Government will be used to secure the continued maintenance of the naval station at Esquimalt.
10. Efficient coast mail steam service in connection with the Post Office, shall be established and maintained by the Government of the Dominion, between Victoria	10. The provisions of the "British North America Act, 1867," shall (except those parts thereof which are in terms made, or by reasonable intendment may be held to

"*Proposed Terms.*"	"*Accepted Terms.*"
and New Westminster, Nanaïmo, and such other places as may require such services.	be specially applicable to and only affect one, and not the whole, of the Provinces now comprising the Dominion, and except so far as may be varied by this Minute) be applicable to British Columbia, in the same way and to the like extent as they apply to the other provinces of the Dominion, and as if the Colony of British Columbia had been one of the Provinces originally united by the said Act.
11. Whatever encouragement, advantages, and protection are afforded by the Dominion Government to the fisheries of any of its Provinces, shall be extended in similar proportion to British Columbia, according to its requirements for the time being.	11. The Government of the Dominion undertake to secure the commencement simultaneously, within two years from the date of Union, of the construction of a railway from the Pacific towards the Rocky Mountains, and from such point as may be selected, east of the Rocky Mountains, towards the Pacific, to connect the seaboard of British Columbia with the railway system of Canada; and further to secure the completion of such railway within ten years from the date of the Union. And the Government of British Columbia agree to convey to the Dominion Government, in trust, to be appropriated in such manner as the Dominion Government may deem advisable in furtherance of the construction of the said railway, a similar extent of public lands along the line of railway throughout its entire length in British Columbia, not to exceed, however, twenty miles on each side of the said line, as may be appropriated for the same purpose by the Dominion Government from the public lands in the north-west territories and the Province of Manitoba. Provided, that the quantity of land which may be held under the pre-emption right or by Crown grant within the limits of the tract of land in British Columbia to be so conveyed to the Dominion Government shall be made good to the Dominion from contiguous public lands; and provided further, that until the commencement, within two years, as aforesaid, from the date of the Union, of the construction of the said railway, the Government of British Columbia shall not sell or alienate any further portions of the public lands of British Columbia in any other way than under right of pre-emption, requiring actual residence of the pre-emptor on the land claimed by him. In consideration of the land to be so conveyed in aid of the construction of the said railway, the Dominion Government agree to pay to British Columbia from the date of the Union, the sum of 100,000 dollars per annum, in half-yearly payments in advance.
12. British Columbia shall participate, in fair proportion, in any measures which	12. The Dominion Government shall guarantee interest for ten years from the

"Proposed Terms."

may be adopted, and funds which may be appropriated by the Dominion for the encouragement of imigration.

13. British Columbia shall be entitled to be represented in the Senate by four Members, and by eight Members in the House of Commons, until the year 18 , and thereafter the Representations in the Senate and the House ot Commons shall be increased, subject to the provisions of the "British North America Act, 1867."

14. The Union shall take effect on such day as Her Majesty by Order in Council (on an Address to that effect, in terms of the 146th Section of the "British North America Act, 1867,") may direct; and British Columbia may, in such Address, specify the districts, counties, or divisions, if any, for which any of the four Senators to whom the Colony shall be entitled shall be named—the electoral districts for which —and the time within which the first election of Members to serve in the House of Commons shall take place.

15. The Constitution of the Executive authority and of the Legislature of British Columbia shall, subject to the provisions of the "British North American Act, 1867,"

"Accepted Terms."

date of the completion of the works, at the rate of 5 per cent. per annum, on such sum, not exceeding 100,000*l.* sterling as may be required for the construction of a first-class graving dock at Esquimalt.

13. The charge of the Indians, and the trusteeship and management of the lands reserved for their use and benefit, shall be assumed by the Dominion Government, and a policy as liberal as that hitherto pursued by the British Columbia Government shall be continued by the Dominion Government after the Union.

To carry out such policy, tracts of land of such extent as it has hitherto been the practice of the British Columbia Government to appropriate for that purpose, shall from time to time be conveyed by the Local Government to the Dominion Government, in trust, for the use and benefit of the Indians on application of the Dominion Government; and in case of disagreement between the two Governments respecting the quantity of such tracts of land to be so granted, the matter shall be referred for the decision of the Secretary of State for the Colonies.

14. The constitution of the Executive authority and of the Legislature of British Columbia shall, subject to the provisions of the "British North America Act, 1867," continue as existing at the time of the Union until altered under the authority of the said Act, it being at the same time understood that the Government of the Dominion will readily consent to the introduction of responsible Government when desired by the inhabitants of British Columbia, and it being likewise understood that it is the intention of the Governor of British Columbia, under the authority of the Secretary of State for the Colonies, to amend the existing constitution of the Legislature by providing that a majority of its members shall be elective.

The Union shall take effect according to the foregoing terms and conditions on such day as Her Majesty by and with the advice of Her Most Honourable Privy Council may appoint (on addresses from the Legislature of the Colony of British Columbia and of the Houses of Parliament of Canada, in the terms of the 146th section of the "British North America Act, 1867"), and British Columbia may in its address specify the electoral districts for which the first election of members to serve in the House of Commons shall take place.

"Proposed Terms."	*"Accepted Terms."*
continue as existing at the time of Union, until altered under the authority of the said Act.	
16. The provisions in the "British North American Act, 1867," shall (except those parts thereof which are in terms made, or by reasonable intendment may be held to be specially applicable to and only effect one and not the whole of the Provinces now comprising the Dominion, and except so far as the same may be varied by this resolution) be applicable to British Columbia in the same way and to the like extent as they apply to the other Provinces of the Dominion, and as if the Colony of British Columbia had been one of the Provinces originally united by the said Act.	
With reference to defence—	
(*a.*) That it shall be an understanding with the Dominion, that their influence will be used to the fullest extent to procure the continued maintenance of the Naval Station at Esquimalt.	
(*b.*) Encouragement to be given to develop the efficiency and organization of the volunteer force in British Columbia.	

(D.)

At the Court at Windsor, the 16th day of May, 1871.

Present:

The Queen's Most Excellent Majesty
His Royal Highness Prince Arthur.

Lord Privy Seal.	Lord Chamberlain.
Earl Cowper.	Mr. Secretary Cardwell.
Earl of Kimberley.	Mr. Ayrton.

WHEREAS by the "British North American Act, 1867," provision was made for the Union of the Provinces of Canada, Nova Scotia, and New Brunswick into the Dominion of Canada, and it was (amongst other things) enacted that it should lawful for the Queen, by and with the advice of Her Majesty's Most Honourable Privy Council, on addresses from the Houses of the Parliament of Canada, and of the Legislature of the Colony of British Columbia, to admit that Colony into the said Union on such terms and conditions as should be in the Addresses expressed, and as the Queen should think fit to approve, subject to the provisions of the said Act: and it was further enacted that the provisions of any Order in Council in that behalf should have effect as if they had been enacted by the Parliament of the United Kingdom of Great Britain and Ireland:

And whereas by Addresses from the Houses of the Parliament of Canada and from the Legislative Council of British Columbia respectively, of which Addresses copies are contained in the Schedule to this Order annexed, Her Majesty was prayed, by and with the advice of Her Most Honourable Privy Council, under the one hundred and forty-six section of the hereinbefore recited Act, to admit British Columbia into the Dominion of Canada, on the terms and conditions set forth in the said Addresses:

And whereas Her Majesty has thought fit to approve of the said terms and conditions; it is hereby ordered and declared by Her Majesty, by and with the advice of Her Privy Council, in pursuance and exercise of the powers vested in Her Majesty by the said Act of Parliament, that from and after the twentieth day of July, one thousand eight hundred and seventy-one, the said Colony of British Columbia shall be admitted

into and become part of the Dominion of Canada, upon the terms and conditions set forth in the hereinbefore recited Addresses: And, in accordance with the terms of the said Addresses relating to the Electoral Districts in British Columbia, for which the first election of members to serve in the House of Commons of the said Dominion shall take place, it is hereby further ordered and declared that such electorial districts shall be as follows:—

* * * * *

And the Right Honorable Earl of Kimberley, one of Her Majesty's Principal Secretaries of State, is to give the necessary directions herein accordingly.

(Signed) ARTHUR HELPS

(E.)

The Secretary of State to the Lieutenant-Governor.

Sir, *Ottawa, June* 10, 1873.

I HAVE the honour to inclose, for the information of your Government, a copy of an Order of his Excellency the Governor-General in Council, fixing Esquimalt, in Vancouver Island, as the terminus of the Canadian Pacific Railway, and further deciding that a line of railway be located between the Harbour of Esquimalt and Seymour Narrows on the said Island.

I have further the honour to apply to you to bring the subject under the notice of your Government, with a view to the conveyance, in the manner and for the purposes stated in the said Order, of a strip of land twenty miles in width, along the Eastern Coast of Vancouver Island, between Seymour Narrows and the Harbour of Esquimalt.

I have, &c.

(Signed) E. A. MEREDITH,

Under-Secretary of State.

(F.)

Copy of a Report of a Committee of the Honourable the Privy Council, approved by his Excellency the Governor-General in Council, on the 7th June, 1873.

THE Committee of Council having had before them the Memorandum of the 29th May last, from the Chief Engineer of the Canadian Pacific Railway, and the Minute of Council thereupon of the 30th May, beg leave to recommend to your Excellency that Esquimalt, in Vancouver Island, be fixed as the terminus of the Canadian Pacific Railway; and that a line of railway be located between the Harbour of Esquimalt and Seymour Narrows, on the said Island.

The Committee further recommend that application immediately be made by despatch to the Lieutenant-Governor of British Columbia for the conveyance to the Dominion Government in trust, according to the 11th paragraph of the Terms of Agreement of Union, of a strip of land twenty miles in width, along the eastern coast of Vancouver Island, between Seymour Narrows and the Harbour of Esquimalt.

An order of the Lieutenant-Governor of British Columbia in Council appropriating this tract of land in furtherance of the construction of the said railway will be necessary, in order to operate as a sufficient conveyance and reservation of the said land to and for the Dominion Government.

Certified,

(Signed) W. A. HIMSWORTH,

Clerk, Privy Council.

(G.)

Copy of a Report approved by his Excellency the Lieutenant-Governor in Council, on the 25th July, 1873.

THE Committee of Council have had under consideration a Memorandum of the 23rd July, 1873, from the Honourable the Attorney-General, reporting upon a despatch

dated the 10th June last, from the Honourable the Secretary of State for the Provinces to your Excellency, covering an Order of the Honourable the Privy Council of Canada, of the 7th of the same month, which states that the Privy Council had decided as follows:—

"That Esquimalt in Vancouver Island be fixed as the terminus of the Canadian Pacific Railway, and that a line of railway be located between the Harbour of Esquimalt and Seymour Narrows on the said Island."

In pursuance of this decision your Excellency is requested to convey by Order in Council "to the Dominion Government in trust, according to the 11th paragraph of the Terms of the Agreement of Union, a strip of land twenty miles in width along the eastern coast of Vancouver Island, between Seymour Narrows and the Harbour of Esquimalt."

Upon the despatch and Order in Council the Honourable the Attorney-General reports as follows:—

"The Agreement of Union is embodied in a Statute. Its language must, therefore, be measured by the ordinary and well-known rules of interpretation as applied to Statutes. The language must not be construed too narrowly, but a fair and liberal construction, and one in accordance with the spirit and true meaning of the Agreement, should be placed upon the wording of the 'Terms.' Allowing, however, the greatest latitude of interpretation, and applying the broadest and most liberal construction to the 11th section of the Agreement, nothing appears which would seem to warrant the Dominion Government in claiming, or justify your Excellency in granting, a conveyance of the twenty-mile belt of land mentioned, until the line of railway be defined.

"It is admitted that the Dominion Government is entitled to the greatest consideration for the energy it has hitherto displayed in its desire to faithfully carry out the railway provisions contained in the Agreement.

"Hence the Government of this Province, holding these views and anxious to render all the assistance in its power to the Dominion Government, assumed the responsibility of reserving the belt of land mentioned almost immediately after the receipt of the despatch which is the subject of this Report. It was, however, expressly understood that the Order in Council creating the reserve should *not operate as a conveyance of the lands* within its limits, and that the reserve itself should not be of a *permanent character*.

"The 11th section of the Terms of Union reads as follows:—

"'The Government of the Dominion undertake to secure the commencement . . . within two years from the date of the Union, of the construction of a railway from the Pacific towards the Rocky Mountains,' thence eastward, &c.

"'The Government of British Columbia agree to convey to the Dominion Government in trust, to be appropriated in such manner as the Dominion Government may deem advisable, in furtherance of the construction of the *said railway*, an extent of public lands *along the line of railway* throughout its entire length in British Columbia, not to exceed, however, twenty miles on *each side of said line* . . . . and provided further that until the commencement, within two years as aforesaid from the date of the Union, of the construction of the said railway, the Government of British Columbia shall not sell or alienate any further portion of the public lands of British Columbia in any other way than under right of pre-emption requiring actual residence of the pre-emptor on the land claimed by him.'

"Under this agreement the Dominion Government undertook to secure the commencement of 'the construction of a railway from the Pacific' eastward on the 20th July, 1873, and the Province in consideration thereof agreed to convey to the Dominion Government 'in furtherance of the construction of the *said railway*,' certain 'public lands *along the line of railway*, not exceeding in extent twenty miles '*on each side of said line*.'

"As far as the Government of this Province has been informed, no line of railway has been surveyed between Esquimalt and Seymour Narrows. A conveyance cannot, therefore, be made of public lands 'along a line of railway' and 'on each side of said line,' where no such 'line of railway' exists. The demand made is for a conveyance of 'a strip of land' twenty miles in width along the 'eastern coast of Vancouver Island,' or, in other words, in the absence of a survey, for a strip of the public lands along the sea coast, but not along any defined line of railway.

"It is respectfully submitted that had a 'line of railway' been defined by a location survey, the Government of this Province would have been notified thereof, and the language of the despatch and of the Order of the Privy Council would have been materially different from that used in the present instance. Instead of asking for a conveyance of land along a sea coast, a demand would have been made for a conveyance of certain lands 'along a line of railway' adopted and laid out according to an accom-

panying plan; such a demand, it is humbly conceived, would have been in accordance with the spirit and language of the 11th section.

"The term of two years mentioned in the first and second paragraphs of the section was inserted by the framers of the terms as a period amply sufficient to enable the Dominion Government to complete the preliminary surveys necessary to determine the 'line of railway,' and the Provincial Government agreed to withdraw all its public lands from sale for the like period in order that the first opportunity should be afforded to the Dominion Government of acquiring within the two years and before the work of construction should commence, the land contiguous to its line of railway, as defined from time to time.

"The two years have expired, and as the claim for the reserve mentioned is not established, it becomes the duty of the Government of British Columbia, in the interests of the Province, to respectfully press upon the Dominion Government the necessity of some immediate action being taken to render the valuable belt of land containing an area of some 3,500 square miles of service to the Province.

"The undersigned therefore suggests that, as no line of railway has been defined, your Excellency be respectfully recommended, for the above reasons, to withhold the conveyance to the Dominion Government of the land mentioned in the despatch; and that the reserve of the said land be continued until a fair opportunity shall have been afforded to the Dominion Government to consider the subject and inform the Government of this Province of its views thereon."

The Committee concur in the above Report of the Attorney-General, and submit the same for your Excellency's approval, and if sanctioned, they suggest that a copy of this Order in Council be transmitted to his Excellency the Governor-General.

Certified,

(Signed) W. J. ARMSTRONG,

Clerk, Executive Council.

(H.)

The Lieutenant-Governor to the Secretary of State for Canada.

Sir, *Government House, July* 26, 1873.

I HAVE the honour to state that the Under Secretary of State for the Provinces' despatch of the 10th ultimo, and the copy therewith inclosed of an Order of his Excellency the Governor-General in Council, fixing Esquimalt, on Vancouver Island, as the terminus for the Canadian Pacific Railway, and further deciding that a line of railway be located between Esquimalt Harbour and Seymour Narrows, was duly received and submitted by me for consideration in my Executive Council, and that the strip of land twenty miles in width, along the eastern coast of Vancouver Island, between Seymour Narrows and the Harbour of Esquimalt, specified in the said Order in Council, was accordingly reserved on the 1st July instant, under the powers and provisions of the 42nd section of the Land Ordinance of 1870 of British Columbia, and notice of such reservation duly published in the "Government Gazette," as appears in the copy thereof herewith inclosed.

With further reference to the Under Secretary of the Provinces' despatch, I have also the honour to inclose herewith, and to request that you will lay before his Excellency the Governor-General, a Minute of my Executive Council conveying the conclusion of this Government that it is not advisable to make, at present, the conveyance applied for in the said despatch and accompanying Order in Council of the land therein specified, and now held under reservation, and setting forth the grounds upon which that conclusion is based.

I have, &c.

(Signed) JOSEPH W. TRUTCH.

(J.)

Secretary of State to the Lieutenant-Governor.

Sir, *Ottawa, August* 26, 1873.

I HAVE the honour to acknowledge the receipt of your despatch of the 26th ultimo, referring to the Order of his Excellency the Governor-General in Council,

communicated to you on the 10th of June last, applying for the conveyance to the Dominion Government of a strip of land twenty miles in width along the eastern coast of Vancouver Island, between Seymour Narrows and the Harbour of Esquimalt, and inclosing a copy of a Minute of your Executive Council on the subject of the said application.

Your despatch and its inclosures will be laid before his Exeellency the Governor General in Council.

I have, &c.
(Signed) E. J. LANGEVIN,
Under-Secretary of State.

(K.)

Copy of a Report of a Committee of the Honourable the Executive Council, approved by his Excellency the Lieutenant-Governor, on the 30th day of June, 1873.

ON a Memorandum dated 30th June, 1873, from the Honourable the Attorney-General, recommending that, for the present, a bare reservation of the twenty-mile belt, lying between Esquimalt Harbour and Seymour Narrows, be made, to protect the Government of the Dominion, until the question raised by the Order in Council of the Privy Council of Canada, dated the 7th instant, with its covering despatch on the subject, of the 10th instant, be more fully discussed and determined; and that the conveyance, in trust, of the said land asked for by the Ottawa Government be for the present deferred, and that the inclosed notice of reservation be adopted, and published in a Gazette Extraordinary.

Certified,
(Signed) W. J. ARMSTRONG,
Clerk of the Executive Council.

(L.)

Notice.

WHEREAS by an Order in Council dated the 7th day of June, 1873, of the Honourable the Privy Council of Canada, it has been decided "that Esquimalt, in Vancouver Island, be fixed as the terminus of the Canadian Pacific Railway, and that a line of railway be located between the harbour of Esquimalt and Seymour Narrows, on the said island;" and whereas, in accordance with the terms of the said Order in Council, application has been made to his Excellency "the Lieutenant-Governor of British Columbia for a reservation, and for the conveyance to the Dominion Government, in trust, according to the 11th paragraph of the terms of the Agreement of Union, of a strip of land twenty miles in width, along the eastern coast of Vancouver Island, between Seymour Narrows and the Harbour of Esquimalt, in furtherance of the construction of the said railway:"

And whereas it has been deemed advisable that the land, within the limits aforesaid, should be reserved, prior to any conveyance aforesaid being made thereof: Public notice is therefore hereby given, that from and after this date, a strip of land twenty miles in width, along the eastern coast of Vancouver Island, between Seymour Narrows and the Harbour of Esquimalt, is hereby reserved.

By command,
(Signed) JOHN ASH,
Provincial Secretary.

Provincial Secretary's Office, July 1, 1873.

(M.)

The Secretary of State to the Lieutenant-Governor.

Department of the Secretary of State for Canada, Ottawa,
Sir, *September* 11, 1873.

I HAVE the honour to transmit to you herewith, for the information of your Government, a copy of an Order of his Excellency the Governor-General in Council,

on your despatch of the 26th July last, inclosing a Minute of your Executive Council, conveying their conclusion that it is not advisable to make at present the conveyance applied for in the letter to you of the 10th of June last.

I have, &c.

(Signed) J. C. AIKINS,

Secretary of State for Canada.

(N.)

Copy of a Report of the Committee of the Honourable the Privy Council, approved by his Excellency the Governor-General in Council, on the 3rd September, 1873.

THE Committee of the Privy Council have had under consideration a despatch from the Lieutenant-Governor of British Columbia, of the 26th July, 1873, inclosing a Minute of his Executive Council, conveying the conclusion of the Government of British Columbia, that it is not advisable to make at present the conveyance applied for in a despatch of the Under-Secretary of State for the Provinces of the 10th of June.

The Committee of the Privy Council have read with great attention the Report of the Executive Council of British Columbia, inclosed in the Lieutenant-Governor's despatch, and beg to submit that, so long as the land which is referred to is not alienated from the Crown, but held under reservation, as stated in the Lieutenant-Governor's despatch, the object of the Government of the Dominion will be obtained, that object being simply that when the railway shall come to be constructed, the land in question shall be at the disposition of the Government of the Dominion, for the purposes laid down in the 11th section of the Terms of Union with British Columbia.

Certified,

(Signed) W. A. HIMSWORTH,

Clerk, Executive Council.

(O.)

The Lieutenant-Governor to the Secretary of State.

Sir, *Government House, September* 22, 1873.

WITH reference to my despatch of the 26th July last, I have the honour to inclose, for the information of his Excellency the Governor-General, a Minute of my Executive Council, urging that the boundaries of the land on Vancouver Island, proposed to be claimed by the Government of the Dominion in trust, to aid the construction of the railroad, under the Terms of Union of British Columbia with Canada, may be at once defined, and that a competent person in this Province may be appointed to dispose of said lands, on such terms as will admit of settlement, and authorizing the Honourable A. De-Cosmos, President of the Executive Council and Premier of my Ministry, to confer with the Government of Canada on this subject.

A duplicate of this despatch and inclosure will be handed to you by Mr. De-Cosmos, who starts to-morrow for Ottawa.

I have, &c.

(Signed) JOSEPH W. TRUTCH.

(P.)

Copy of a Report of a Committee of the Honourable the Executive Council, approved by his Excellency the Lieutenant-Governor on the 20th day of September, 1873.

ON a Memorandum, dated 18th September, 1873, from the Honourable Chief Commissioner of Lands and Works, reporting that the Order in Council of the 30th June, 1873, reserving Crown lands of the east coast of Vancouver Island, is seriously retarding the settlement of that portion of the Province; and recommending that, in view of the fact that the despatch from his Excellency the Lieutenant-Governor to the Secretary of State, transmitting the Minute of this Executive Council, dated 25th July, 1873, upon the subject of this reservation, has not as yet been replied to, and as the matter requires immediate settlement, that the Dominion Government be respectfully urged to at once

define, by survey, the land they propose claiming on the east coast of Vancouver Island; and that they appoint also a competent person in this province to dispose of said lands on such terms as will admit of settlement; and that the Honourable Amor De-Cosmos, as Special Delegate, about to proceed to Ottawa, be authorized to confer with the Dominion Government upon the subject.

Certified,
(Signed) W. J. ARMSTRONG,
Clerk, Executive Council.

(Q.)

The Secretary of State to the Lieutenant-Governor.

Sir, *Ottawa, October* 8, 1873.

I HAVE the honour to acknowledge the receipt of your despatch of the 22nd ultimo, on the subject of the occupation of lands reserved by the Dominion Government, and to state that the same will receive due consideration.

I have, &c.
(Signed) EDWARD J. LANGEVIN,
Under-Secretary of State.

(R.)

Copy of an Order in Council of this Province, dated July 25, 1873.

THE Committee of Council have had under consideration the non-fulfilment by the Dominion Government of the 11th section of the Terms of Union.

The Committee regret that the construction of the railway has not been commenced, and therefore strongly protest against the breach by the Dominion Government of a condition of the terms so highly important to the Province.

The Committee recommend the above for the approval of your Excellency, and, if sanctioned, respectfully request that a copy thereof be at once forwarded to the Dominion Government.

Certified,
(Signed) W. J. ARMSTRONG,
Clerk, Executive Council.

(S.)

The Lieutenant-Governor to the Secretary of State.

Sir, *Government House, July* 26, 1873.

I HAVE the honour to inclose, at the request of my Ministers, for submission to His Excellency the Governor-General, a Minute of my Executive Council, representing the non-fulfilment by the Dominion of the 11th Section of the terms of Union of British Columbia with Canada, expressing regret that the railway has not been commenced, and strongly protesting against the breach of a condition of the terms so highly important to this Province.

I have, &c.
(Signed) JOSEPH W. TRUTCH.

(T.)

Secretary of State to the Lieutenant-Governor.

Sir, *Ottawa, August* 23, 1873.

I HAVE the honour to acknowledge the receipt of your despatch 26th ultimo, covering a copy of a Minute of your Executive Council, complaining of the non-fulfilment by the Dominion Government, of the 11th Section of the terms of Union British Columbia with Canada.

Your despatch and its inclosures will be at once laid before His Excellency the Governor-General in Council.

I have, &c.
(Signed) E. J. LANGEVIN,
Under-Secretary of State.

(U.)

The Lieutenant-Governor to the Secretary of State.

Sir. *Government House, November* 24, 1873.

I HAVE the honour to inclose a further Minute of my Executive Council, referring to the non-fulfilment by the Dominion Government of the 11th Article of the terms of Union of this Province with Canada.

In accordance with the advice of my Ministers, expressed in this Minute, I beg you to be pleased to lay before his Excellency the Governor-General, and to be good enough to bring to his Excellency's attention the previous Minutes of my Executive Council on the same subject, which were forwarded for his consideration in my despatches of the 26th July last, the latter of which conveying a protest from this Government on the failure of the Dominion Government to secure the commencement, within two years from the date of Union, of the construction of a railroad from the Pacific towards the Rocky Mountains, as provided in the 11th Article of the terms of Union, is yet unanswered; and to move his Excellency to communicate to this Government, in whatever manner he may deem advisable, in time to meet the requirement of the desire indicated by my Ministers, the course intended to be taken by the Dominion in fulfilment of the 11th Article of the terms of Union of this Province with Canada.

I have, &c.
(Signed) JOSEPH W. TRUTCH.

(V.)

Copy of a Report of a Committee of the Honourable the Executive Council, approved by His Excellency the Lieutenant-Governor, on 22nd day of November, 1873.

THE Committee of Council having had under consideration a Memorandum from the Honourable the Provincial Secretary, dated 19th November, 1873, setting forth the acts—

That the Government of British Columbia has protested against the non-fulfilment by the Dominion Government of the 11th Article of the Terms of Union:

That beyond the acknowledgment of the receipt, no reply has been made by the Dominion Government to the dispatch conveying the protest:

That the Government of British Columbia looking at the actual condition of affairs felt compelled to await the action of the Parliament of Canada, expected shortly to meet, and which did meet at Ottawa on the 23rd of October last past:

That the Parliament of Canada has been prorogued not to meet until February next, without making provision for the construction of the Pacific Railway:

That the Legislative Assembly of the Province stands called to meet at Victoria on the 18th day of December next: and

That the non-fulfilment by the Dominion Government of the Terms of Union has caused a strong feeling of anxiety and discouragement to exist throughout the Province.

The Committee advise your honour to ask the Dominion Government through the proper channel, for a decided expression of its policy with regard to the fulfilment of the 11th Article of the terms of Union, in order that the information may be given to the Legislature at the opening of the coming Session.

And they request that the decision arrived at be communicated to your honour by telegram at the earliest moment possible; and the Committee respectfully suggest, that if the present Report be sanctioned, your honour will be pleased to forward the same to His Excellency the Governor-General; and also to draw his attention to the Minutes of Council, each bearing date the 25th day of July last, on the same subject, one being a protest against the breach of Article 11, and the other a denial of the right of the

Dominion Government to a conveyance or reserve of any of the public lands for railway purposes until the line of railway should be defined.

(Certified) W. J. ARMSTRONG,
Clerk, Executive Council.

(W.)

Telegram.

The Hon. G. A. Walkem, *Ottawa, December* 22, 1873.

The Dominion Government scheme for the construction of Pacific Railway was outlined in my speech at Sarnia, Ontario, on the 25th November, which you have no doubt seen.

We are giving earnest consideration to the details of the scheme, which we belive will be acceptable to the whole of the Dominion including British Columbia. We hope to communicate with you shortly, probably, by special agent. I will telegraph you again in a week or so.

(Signed) A. MACKENZIE.

(X.)

Extract from Journals of Legislative Assembly.

Monday, February 9, 1874.

ON the motion of the Honourable Mr. Beaven, seconded by Mr. Duck, it was resolved:—

That whereas, on the 20th July, 1871, the Colony of British Columbia was united to and became part of the Dominion of Canada, in accordance with certain terms; and whereas, by Section 11 of the said terms, the Government of the Dominion undertook to secure the commencement, simultaneously, within two years from the date of Union, of the construction of a railway from the Pacific towards the Rocky Mountains, and from such point as may be selected east of the Rocky Mountains towards the Pacific: and whereas, the two years therein referred to expired on the 20th July last, and the construction of the said railway was not then, and has not since, been commenced, causing thereby serious loss and injury to the people of this Province: be it, therefore, Resolved:—

That an humble address be presented to his honour the Lieutenant-Governor, respectfully requesting him to protest, on behalf of the Legislature and people of this Province, against the infraction of this most important clause of the terms of Union, and to impress upon the present Administration in Canada the absolute necessity of commencing the actual construction of the railway from the seaboard of British Columbia early in the present year.

(Y.)

The Lieutenant-Governor to the Secretary of State.

Sir, *Victoria, February* 25, 1874.

I HAVE the honour to inclose herewith, a copy of an address to me from the Legislative Assembly of this Province, requesting me to protest on behalf of the Legislature and people of British Columbia, against the infraction of the 11th Article of the Terms of Union of British Columbia with Canada, by which the Dominion undertook to secure the commencement, simultaneously, within two years from the date of Union of the construction of a railway from the Pacific towards the Rocky Mountains, and from such point as may be selected east of the Rocky Mountains towards the Pacific to connect the seaboard of British Columbia with the railway system of Canada, and to urge the absolute necessity for the commencement of the actual construction of such railway from the seaboard of British Columbia, early in the present year.

I also inclose a Minute of my Executive Council concurring in the prayer of this Address to me, and recommending that a copy be forwarded by me to his Excellency the Governor-General, with a request that he will be pleased to order immediate action to be taken thereon.

In accordance, therefore, with the advice of my Ministers, I beg that you will be good enough to lay this despatch and its inclosure before his Excellency the Governor-General, and to commend to his Excellency's favourable consideration the representations and urgent requests of the Government and Legislature of British Columbia herein set forth.

I have, &c.
(Signed) JOSEPH W. TRUTCH.

(Z.)

The Secretary of State to the Lieutenant-Governor.

Sir, *Ottawa, March* 12, 1874.

I HAVE the honour to acknowledge the receipt of your despatch of the 25th ultimo, covering a copy of an Address of the Legislative Assembly of the Province of British Columbia, and of a Minute of your Executive Council, founded thereon, on the subject of the non-fulfilment of the 11th Section of the Terms of Union of the Province to the Dominion.

Your despatch and its inclosures will be submitted for the consideration of his Excellency the Governor-General.

I am, &c.
(Signed) E. J. LANGEVIN,
Under-Secretary of State.

(AA.)

Letter of Introduction from the Hon. A. Mackenzie to the Hon. G. A. Walkem, dated Ottawa, February 19, 1874, *printed at page* 35.

(BB.)

Copy of a Report of a Committee of the Honourable the Executive Council, approved by his Excellency the Lieutenant-Governor, on the 7th day of May, 1874.

ON a Memorandum dated 7th May, 1874, from the Honourable the Attorney-General, recommending that his Excellency the Lieutenant-Governor be requested to telegraph to his Excellency the Governor-General for a reply by telegram, containing full information of the railway policy of the Dominion Government, especially as it affects British Columbia, and whether it is true that the Premier has publicly stated in the Commons that the Dominion Government do not intend to commence railway construction this year in this Province.

The Committee advise that the recommendation be approved.

Certified,
(Signed) W. J. ARMSTRONG,
Minister of Finance and Agriculture, and Clerk of the Executive Council.

(CC.)

Telegram.

Victoria, May 7, 1874.

To the Hon. the Secretary of State for Canada, Ottawa, Canada,

IT being reported here to-day that the Premier stated in the House of Commons, on the 4th instant, that construction of railway in British Columbia would not be commenced this year, this Government urgently requests to be fully informed, immediately, by telegram, of particulars of policy adopted by Dominion Government respecting railway clause of Terms of Union.

(Signed) JOSEPH W. TRUTCH,
Lieutenant-Governor.

(DD.)

Telegram.

Lieutenant-Governor Trutch. *Ottawa, Ontario, May* 8, 1874.

MR. MACKENZIE simply said that, until the location of the road was ascertained, it was impossible to commence construction; that a large surveying force was now at work, and there was no reason to believe that it would be possible to complete the survey before the close of the year.

(Signed) R. W. SCOTT, *Secretary of State.*

(EE.)

Mr. J. D. Edgar's Letter to the Hon. G. A. Walkem, dated Victoria, British Columbia, May 8, 1874, *will be found printed at page* 36.

(FF.)

Hon. G. A. Walkem to Mr. J. D. Edgar, dated Attorney-General's Department, Victoria, May 11, 1874, *printed at page* 38.

(GG.)

Copy of a Report of a Committee of the Honourable the Executive Council, approved by his Excellency the Lieutenant-Governor, on the 18*th day of May,* 1874.

ON a Memorandum dated 16th May, 1874, from the Honourable the Attorney-General, recommending that his Excellency the Lieutenant-Governor be respectfully requested to ascertain, by telegraph, from the Honourable Secretary of State, whether any propositions purporting to be, or to have been made by James D. Edgar, Esq., on behalf of the Dominion Government, will be considered binding by them; and, further, whether he has any power to enter into any negotiations with this Government.

The Committee advise that the recommendation be approved.

Certified,

(Signed) W. J. ARMSTRONG,
Minister of Finance and Agriculture, and Clerk of the Executive Council.

(HH.)

Mr. J. D. Edgar to the Hon. G. A. Walkem, dated Victoria, May 18, 1874, *printed at page* 38.

(JJ.)

Hon. G. A. Walkem to Mr. J. D. Edgar, dated Victoria, May 18, 1874, *printed at page* 38.

(KK.)

Telegram.

Victoria, May 18, 1874.

The Hon. R. W. Scott, Secretary of State, Ottawa, Canada.

MY Ministers request to be informed whether Mr. Edgar is empowered to negotiate with this Government, and whether propositions purporting to be made by him on behalf of the Dominion Government will be considered binding by that Government.

(Signed) JOSEPH W. TRUTCH,
Lieutenant-Governor

(LL.)

Telegram.

To Lieutenant-Governor Trutch. *Ottawa, May* 20, 1874.

I REFER Ministry to my letter by Mr. Edgar, which sufficiently indicated his Mission, and which they recognized.

He is now recalled, and I await his return and reports.

(Signed) A. MACKENZIE.

(MM.)

Telegram.

Hon. A. Mackenzie, Ottawa. *Victoria, May* 21, 1874.

WILL you kindly answer Governor's telegram fully. Do Mr. Edgar's propositions to change Railway Terms bind your Government?

(Signed) GEO. A. WALKEM.

(NN.)

Copy of a Report of a Committee of the Honourable the Executive Council, approved by his Excellency the Lieutenant-Governor, on the 21st day of May, 1874.

THE Committee of Council have had under consideration the subject of the non-fulfilment by the Dominion Government of the 11th or Railway Clause of the Terms of Union; and, in view of the importance of the question as affecting the whole Province, they recommend that a letter of Mr. J. D. Edgar, dated 8th May, 1874, addressed to the Honourable Attorney-General, and the Orders in Council, the telegrams, and the correspondence relating thereto, be published for general information.

The Committee remark, that the letter alluded to by Mr. Edgar as having been delivered by him to your Excellency, is the only document bearing on the subject which will not be published. This letter they have never seen, nor have they any further knowledge of it beyond the reference made to it by your Excellency as a letter received by you from his Excellency the Governor-General, marked "Private and Confidential," and therefore not communicated to the Council.

Certified,

(Signed) W. J. ARMSTRONG,

Minister of Finance and Agriculture, and Clerk of the Executive Council.

(OO.)

Telegram.

Ottawa, Ontario, June 8, 1874.

To Lieutenant-Governor Trutch. (*Received at Victoria, June* 8.)

ON May 8, Mr. Edgar, on behalf of the Dominion Government, made certain proposals to your Government respecting the construction of the Pacific Railway, which involved immediately heavy expenditure for purchases (purposes) not contemplated by the Terms of Union, in consideration of foregoing the limit of the time for the completion of the railway.

I exceedingly regret that your Government have not replied to the proposals, or apparently considered them. I beg, therefore, that you will now inform your Ministers that the proposals are withdrawn.

(Signed) A. MACKENZIE.

(PP.)

Copy of Order in Council, approved by his Excellency the Lieutenant-Governor, 9th June, 1874.

ON a Memorandum of the 9th day of June, 1874, reporting on a telegram laid before this Council by his Excellency the Lieutenant-Governor, yesterday received by

him, from the Honourable Alexander Mackenzie, Premier of the Dominion of Canada (copy of which is inclosed), respecting certain proposals in writing, made on the 8th of May last, by Mr. Edgar to Mr. Walkem, and recommending that his Excellency be respectfully requested to send the inclosed telegraphic message in reply thereto.

The Committee advise that the recommendation be approved.

(Signed) GEO. A. WALKEM,
President, Executive Council.

(QQ.)

Telegram.

Victoria, June 9, 1874.

The Hon. R. W. Scott, Secretary of State, Ottawa, Canada.

MY Ministers request me to state, in reference to a telegram to me from Mr. Mackenzie, dated yesterday, that it conveys the first direct information to this Government, (although such information was formally applied for by telegram to you of 18th May), that the views on the Railway question, contained in a letter from Mr. Edgar to Mr. Walkem, were proposals to this Government from the Dominion Government, and that they consider it remarkable that the only communication to this Government which acknowledges such proposals authoritative, should at the same time withdraw them.

(Signed) JOSEPH W. TRUTCH,
Lieutenant-Governor.

(RR.)

Extract from the Montreal Weekly Gazette, May 15, 1874.

"THEY were quite aware that the difficulties to be surmounted were extensive, and they were quite aware that the terms of the agreement with British Columbia had been violated. Under these circumstances they thought that in the meantime the first step to be taken, was to confer with the Local Government of the Province of British Columbia, and to endeavour to ascertain from them if any means could be arranged by which an extension of time could be procured for the prosecution of the work, we were bound to undertake. With that view an Agent was sent as a Representative of this Government, to visit that Province; and in the course of his communications with the Local Government, it became very apparent, as it had been made apparent in the House by several Members from the Island of Vancouver, that it was an exceedingly important matter with them to have the road commenced at once. He, for one, was quite willing, if the Local Government was disposed to make some terms for the extension of time, that that the Government should undertake the construction of the land portion as rapidly as possible; but if it became apparent that the Local Government were determined to adhere to the whole terms, then the Dominion of Canada could accede to the terms, and nothing more. They instructed Mr. Edgar to say, that the Government would be prepared immediately to undertake the commencement of the work on the island, traversing northwards towards the point of crossing; prosecuting the surveys on the mainland; getting a passable route along the ridge; and erecting telegraph lines. He was also instructed to state, that as soon as the work could be placed under contract, they would spend no less than 1,500,000 dollars within the Province on the railway. He did not know whether this had been accepted or not, but under any circumstances they should have authority to proceed with the work, as they thought would meet the just expectations of the country, and the reasonable expectations of the people in British Columbia. The policy he had announced in his election address in November last, had been closely criticised by the honourable gentlemen opposite. He had his own impression as to the course to be pursued; and he thought, if he recollected rightly, that the right honourable gentlemen opposite had said that if his views were adopted, British Columbia would be justified in seceding from the Union."

No. 13.

The Earl of Dufferin to the Earl of Carnarvon.—(*Received August* 4.)

My Lord, *Government House, Ottawa, July* 18, 1874.

I HAVE the honour to inclose a copy of an approved Report of a Committee of the Privy Council, requesting me to inform your Lordship that Mr. Walkem, the Attorney-General of the Province of British Columbia, has been deputed by that Government, as a Special Agent, to lay before your Lordship the claims of British Columbia under the XIth Clause of the Terms of Union with the Dominion of Canada.

I have, &c.
(Signed) DUFFERIN.

Inclosure in No. 13.

Report of a Committee of the Honourable the Privy Council, approved by his Excellency the Governor-General on the 8th July, 1874.

ON a despatch dated 11th June, 1874, from his Honour the Lieutenant-Governor of British Columbia, inclosing a Minute of the Executive Council of that Province representing that British Columbia is suffering great injury from the failure by Canada to carry out the obligations of the XIth clause of the Terms of Union, and that it is advisable in the interests of that Province that the case be laid before the Imperial Government by means of a Memorial to be presented to the Secretary of State for the Colonies, by the Attorney-General of British Columbia, as Special Agent and Delegate of that Government.

The Lieutenant-Governor states that, in accordance with the advice of his Ministers, he has appointed the Honourable George Anthony Walkem, Attorney-General of that Province to be such Special Agent and Delegate, and at their request he begs that your Excellency be informed that Mr. Walkem has been duly appointed as such Special Agent and Delegate; and that your Excellency be moved to acquaint the Right Honourable Her Majesty's Principal Secretary of State for the Colonies that Mr. Walkem has been authorized and instructed to place in his hands the Memorial of that Government, appealing to Her Majesty, and to support the prayer thereof.

On the recommendation of the Honourable the Secretary of State, the Committee advise that the above request be acceded to.

Certified,
(Signed) W. A. HIMSWORTH,
Clerk Privy Council.

No. 14.

The Earl of Dufferin to the Earl of Carnarvon.—(*Received August* 4.)

My Lord, *Ottawa, July* 22, 1874.

I HAVE the honour to forward herewith, three copies of the Act of last Session, "An Act to Provide for the Construction of the Canadian Pacific Railway." One copy is attested by the Deputy-Clerk of the Senate.

I have, &c.
(Signed) DUFFERIN.

Inclosure in No. 14.

An Act to provide for the Construction of the Canadian Pacific Railway.

WHEREAS by the terms and conditions of the admission of British Columbia into union with the Dominion of Canada, set forth and embodied in an Address to Her Majesty adopted by the Legislative Council of that Colony in January 1871, under the

provisions of the 146th section of the "British North America Act, 1867," and laid before both the Houses of the Parliament of Canada during the Session of 1871, and concurred in by the Senate and House of Commons of Canada, and embodied in addresses to the said Houses to Her Majesty under the said section of the "British North America Act, 1867," and approved by Her Majesty and embodied in the Order of Her Majesty in Council of the 16th of May, 1871, admitting British Columbia into the Union under the said Act as part of the Dominion of Canada, from the 20th day of July, 1871, it is among other things provided :

That the Government of the Dominion shall construct a railway from the Pacific towards the Rocky Mountains, and from such point as may be selected for the purpose east of the Rocky Mountains towards the Pacific, to connect the seaboard of British Columbia with the railway system of Canada: and further, that the Government of the Dominion shall secure the commencement of such railway within two years and its completion within ten years from the date of the Union; the Government of British Columbia agreeing to convey to the Dominion Government, in trust, to be appropriated in such manner as the Dominion Government may deem advisable in furtherance of the construction of the said railway, a similar extent of public lands along the line of railway, through its entire length in British Columbia (not to exceed, however, twenty miles on each side of the said line), as may be appropriated for the same purpose by the Dominion Government from the public lands in the north-west territories and the Province of Manitoba, subject to certain conditions for making good to the Dominion Government from contiguous lands the quantity of land which may be held under pre-emption right or by Crown grants within the said limits, and for restraining the sale or alienation by the Government of British Columbia during the said two years, of lands with the said limits:

And whereas, the House of Commons of Canada resolved in the Session of the year 1871, that the said railway should be constructed and worked by private enterprise and not by the Dominion Government, and that the public aid to be given to secure its accomplishment, should consist of such liberal grants of land and such subsidy in money or other aid, not increasing the then existing rate of taxation, as the Parliament of Canada should thereafter determine: And whereas the Statute 35 Victoria, chapter 71, was enacted in order to carry out the said agreement and resolution; but the enactments therein contained have not been effectual for that purpose:

And whereas, by the legislation of this present session, in order to provide means for meeting the obligations of the Dominion the rate of taxation has been raised much beyond that existing at the date of the said resolution: And whereas, it is proper to make provision for the construction of the said work as rapidly as the same can be accomplished without further raising the rate of taxation: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows.—

1. A railway to be called the "Canadian Pacific Railway" shall be made from some point near to and south of Lake Nipissing to some point in British Columbia on the Pacific Ocean, both the said points to be determined and the course and line of the said railway to be approved of by the Governor in Council.

2. The whole line of the said railway, for the purpose of its construction, shall be divided into four sections: the first section to begin at a point near to and south of Lake Nipissing, and to extend towards the upper or western end of Lake Superior, to a point where it shall intersect the second section hereinafter mentioned; the second section to begin at some point on Lake Superior, to be determined by the Governor in Council, and connecting with the first section, and to extend to Red River, in the Province of Manitoba; the third section to extend from Red River, in the Province of Manitoba, to some point between Fort Edmonton and the foot of the Rocky Mountains, to be determined by the Governor in Council; the fourth section to extend from the western terminus of the third section to some point in British Columbia on the Pacific Ocean.

3. Branches of the said railway shall also be constructed as follows, that is to say:—

(1.) A branch from the point indicated as the eastern terminus of the said railway to some point on the Georgian Bay, both the said points be determined by the Governor in Council.

(2.) A branch from the main line near Fort Garry, in the Province of Manitoba, to some point near Pembina on the southern boundary thereof.

4. The branch railways above mentioned shall, for all intents and purposes, be considered as forming part of the Canadian Pacific Railway, and as so many distinct sections of the said railway, and shall be subject to all the provisions hereinafter made

with respect to the said Canadian Pacific railway, except in so far as it may be otherwise provided for by this Act.

5. A line of electric telegraph shall be constructed in advance of the said railway and branches, along their whole extent respectively, as soon as practicable after the location of the line shall have been determined upon.

6. The gauge of the said railway shall be 4 feet 8½ inches, and the grades thereof, and the materials and manner of and in which the several works forming part thereof shall be constructed, and the mode of working the railway, including the description and the capacity of the locomotive engines and other rolling stock, shall be such as may be determined by the Governor in Council.

7. The said Canadian Pacific Railway and the branches or sections hereinbefore mentioned, and the stations, bridges, and other works connected therewith, and all engines, freight and passenger cars, and rolling stock shall be constructed under the general superintendence of the Department of Public Works.

8. The Governor in Council may divide the several sections of the said railway into sub-sections, and may contract with any person, co-partnership or company incorporated or to be hereafter incorporated (hereinafter referred to as the "Contractors," which expression shall be understood to include a single "Contractor" for any such work) for the construction of any section or sub-section of the said Railway, including all works connected therewith, and all rolling stock required to work the same, and for the working of the same as hereinafter provided, on such terms and conditions as by the Governor in Council may be deemed just and reasonable, subject to the following provisions:—

(1.) That the works on any section or sub-section of the said railway shall not be given out to any contractor or contractors except after tenders shall have been obtained for the same.

(2.) That the contract for any portion of the said works shall not be given to any contractors unless such contractors give satisfactory evidence that they possess a capital of at least 4,000 dollars per mile of their contract, and of which 25 per cent. in money, Government or other sufficient securities, approved by the Governor in Council, shall have been deposited to the credit of the Receiver-General in one or more of the chartered Banks of the Dominion to be designated for that purpose by the Governor in Council, as security for the completion of the contract, and the Governor in Council may make such further conditions as he may deem expedient for securing the performance of the contract, as well with respect to the construction as to the working of the railway after completion, and any such condition shall be valid, and may be enforced as provided by the contract.

(3.) That the total sum to be paid to the contractors shall be stipulated in the contract, and shall be 10,000 dollars for each mile of the section or sub-section contracted for, and that such sum shall be paid to the contractors as the work progresses by monthly payments in proportion to the value of the work then actually performed (according to the estimates of the engineers designated for the purpose by the Minister of Public Works) as compared with the value of the whole work contracted for, including rolling stock and all things to be done or furnished by the contractors; and except money arising from the sale of lands as hereinafter provided, no further sum of money shall be payable to the contractors as principal, but interest at the rate of 4 per cent. per annum for twenty-five years from the completion of the work, on a sum (to be stated in the contract) for each mile of the section or sub-section contracted for, shall be payable to the contractors, and guarantees for the payment thereof shall be given from time to time to the contractors in like manner and proportion and on like conditions as payments are to be made on the principal sum above mentioned; and the tenders for the work shall be required to state the lowest sum per mile on which such interest and guarantees will be required.

(4.) That a quantity of land, not exceeding 20,000 acres for each mile of the section or sub-section contracted for shall be appropriated in alternate sections of twenty square miles each along the line of the said railway, or at a convenient distance therefrom, each section having a frontage of not less than three miles nor more than six miles on the line of the said railway, and that two-thirds of the quantity of land so appropriated shall be sold by the Government at such prices as may be from time to time agreed upon between the Governor in Council and the contractors, and the proceeds thereof accounted for and paid half yearly to the contractors, free from any charge of administration or management; the remaining third to be conveyed to the contractors. The said lands to be of fair average quality and not to include any land already granted or occupied under any patent, licence of occupation, or pre-emption right; and when a sufficient quantity

cannot be found in the immediate vicinity of the railway, then the same quantity, or as much as may be required to complete such quantity, shall be appropriated at such other places as may be determined by the Governor in Council.

(5.) That the said blocks of land to be appropriated as aforesaid shall be designated by the Governor in Council as soon as the line of railway, or of any section or sub-section thereof, is finally located. Provided that all such payments of the proceeds of lands sold, and conveyances of lands to be granted shall be so made and granted from time to time as the work of construction is proceeded with, in like manner and proportion and on like conditions as the money and guarantees above mentioned, and subject to any conditions of the contract as respects the construction of the working of the railway after completion.

(6.) That the Governor in Council may further grant to the contractors the right of way through Government lands, as also any such lands required for stations or work-shops, and generally all such lands as may be necessarily required for the purpose of constructing or working the said railway.

(7.) That the cost of surveys and of locating the line of the several sections and sub-sections of the said railway shall be part of the subsidy or consideration allowed to the contractors or not, as may be determined by the Governor in Council, and agreed upon in the contract entered into with the contractors.

(8.) Each section or sub-section of the said railway, as it is in whole or in part completed, shall be the property of the contractors for the same, and shall be worked by and for the advantage and benefit of such contractors, under such regulations as may from time to time be made by the Governor in Council, as regards the rates chargeable for passengers and freight, the number and description of trains to be run, and the accommodation to be afforded for freight and passengers.

(9.) All and every the provisions of "The Railway Act, 1868," in so far as the provisions therein contained are applicable to the said Canadian Pacific Railway, or any section or sub-section thereof, and are not inconsistent with or repugnant to the provisions of this Act, shall be considered as forming part of this Act, and are hereby incorporated therewith.

(10.) In applying the said Railway Act to the Canadian Pacific Railway, or any portion thereof, the expression "the Railway" shall be construed as meaning any section or sub-section of the said railway, the construction of which has been undertaken by any contractors; and the expression "the Company" shall mean the contractors for the same. And such contractors shall have all the rights and powers vested in Companies by the said Act.

(11.) As respects the said railway, the 8th section of "The Railway Act, 1868," relating to plans and surveys, shall be subject to the following provisions:—

It shall be sufficient that the map or plan and book of reference for any portion of the line of the railway, not being within any district or county for which there is a Clerk of the Peace, be deposited in the office of the Minister of Public Works of Canada, and any omission, misstatement, or erroneous description of any lands therein may be corrected by the contractor, with the consent of the Minister, and certified by him; and the railway may then be made in accordance with such certified correction.

The 11th sub-section of the said 8th section of the Railway Act shall not apply to any portion of the railway passing over ungranted lands of the Crown, or lands not within any surveyed township in any province; and in such places deviations not exceeding 5 miles from the line shown on the map or plan, approved by the Minister of Public Works, shall be allowed, on the approval of the engineer employed by the said Minister, without any formal correction or certificate; and any further deviation that may be found expedient may be authorized by the Governor in Council, and the railway made in accordance with such anthorized deviation.

The map or plan and book of reference made and deposited in accordance with this section, after approval by the Government, shall avail as if made and deposited as required by the said "The Railway Act, 1868," for all the purposes of the said Act, and of this Act; and any copy of the same or extract therefrom, certified by the said Minister or his deputy, shall be received as evidence in any Court of Law in Canada.

It shall be sufficient that a map or profile of any part of the completed railway, which shall not lie within any county or district having a registry office, be filed in the office of the Minister of Public Works.

(12.) The provision made in sub-sections 30, 31, and 32, of section 9 of "The Railway Act, 1868," as to incumbrances on lands acquired for the said railway, shall apply to lands so acquired in the Provinces of Manitoba and British Columbia, and in the North-West Territories; and as respects lands in the North-West Territories, the

Court of Queen's Bench for the Province of Manitoba shall be held to be the Court intended by the said sub-sections.

(13.) In the Provinces of British Columbia and Manitoba, any Judge of a Superior or County Court shall have all the powers given by the said Act to a County Judge, and in the North-West Territories such powers shall be exercised by a Judge of the Court of Queen's Bench of the Province of Manitoba.

(14.) It shall be lawful for the contractors to take from any public lands adjacent to or near the line of the said railway, all stone, timber, gravel and other materials which may be necessary or useful for the construction of the railway; and also to lay out and appropriate to the use of the contractor a greater extent of lands, whether public or private, for stations, depôts, workshops, buildings, side-tracks, wharves, harbours and roadway, and for establishing screens against snow, than the breadth and quantity mentioned in the "Railway Act, 1868," such greater extent taken, in any case, being allowed by the Government, and shown on the maps or plans deposited with the Minister of Public Works.

(15.) As respects places not within any Province, any notice required by the "Railway Act, 1868," to be given in the "Official Gazette" of a Province, may be given in the "Canada Gazette."

(16.) Deeds and conveyances of lands to the contractors (not being letters patent from the Crown) may, in so far as circumstances will admit, be in the form following, that is to say:—

"Know all men by these presents, that I, A.B., in consideration of paid to me by the contractors for section (*or as the case may be,*) of the Canadian Pacific Railway, the receipt whereof is hereby acknowledged, grant, bargain, sell and convey unto the said contractors for section successors and assigns, all that tract or parcel of land (*describe the land*) to have and to hold the said land and premises unto the said contractors, their successors and assigns for ever.

"Witness my hand and seal, this day of one thousand eight huhdred and

"A. B. [L.S.]

"Signed, sealed, and delivered in presence of

"C. D.

"E. F."

or in any other form to the like effect.

(17.) Her Majesty's naval and military forces, whether Imperial or Canadian, Regular or Militia, and all artillery, ammunition, baggage, provisions, or other stores for their use, and all officers and others travelling on Her Majesty's naval and military or other services, and their baggage and stores, shall at all times, when the contractors shall be thereunto required by one of Her Majesty's Principal Secretaries of State, or by the Commander of Her Majesty's Forces in Canada, or by the Minister of Militia and Defence of Canada, or by the Chief Naval Officer on the North American Station on the Atlantic, or on the Pacific Ocean, be carried on the said railway by the contractors on such terms and conditions and under such regulations as the Government shall from time to time make.

(18.) The Justices of the Peace for any county or district in British Columbia and Manitoba, assembled in General or Quarter Sessions, shall have the power vested by section forty-nine of the "Railway Act, 1868," in the Justices so assembled in the Province of Ontario as to the appointment of railway constables, and in places where there are no such sessions, any two Justices of the Peace in any Province, or in any place not within a Province, shall have the powers given by the said section to any two Justices of the Peace in Ontario for the appointment and dismissal of any such constables; and where there is no Clerk of the Peace the record of the appointment o constable shall be dispensed with.

General Provisions.

9. Any felony or misdemeanor in contravention of the Penal Clauses of the "Railway Act, 1868," committed in the Province of Manitoba or British Columbia, shall be tried, punished, and dealt with in such Province, by and before the court or tribunal having cognizance of felonies and misdemeanors respectively (as the case may be), and punished in the manner provided by the said Act; and, if committed in any place not within the Province, may be tried, punished, and dealt with by any court having like jurisdiction in British Columbia, Manitoba, or Ontario, in any of which Provinces the offender may be arrested and dealt with as if the offence had been com-

mitted there; or he may be arrested in the territory where the offence is committed, and committed by any Justice of the Peace for such territory for trial at such court, and in such county, district, or place in either of the said Provinces, as the Justice may think most convenient, and to the common gaol whereof he may commit such offender, and authorize his being conveyed by any constable; and if the punishment to which he is sentenced be imprisonment in the penitentiary, and there be no penitentiary in the Province, such imprisonment shall be in the common gaol for the place where he is convicted; and any offence against the said "Penal Clauses," or any other section of the said Act thereby cognizable before a Justice or Justices of the Peace, shall be cognizable before a Justice or Justices of the Peace for the place where the offence is committed; and if any pecuniary penalty be imposed and there be no party entitled to receive it under the said Act, it shall be paid to the Receiver-General, to the credit of the Railway Inspection Fund. And this section shall apply as well to any part of the said Railway, constructed by the Government of Canada as a Public Work, as to any portion thereof constructed by contractors.

10. In every contract for the construction of the said railway or of any section or sub-section thereof, the Government of Canada shall reserve the right to purchase under the authority of Parliament, the said railway or such section or sub-section thereof, on payment of a sum equal to the actual cost of the said railway, section or sub-section, and 10 per cent. in addition thereto; the subsidies in land and money granted or paid by the Government for the construction of the said railway being first returned or deducted from the amount to be paid, the land sold being valued at the full amount the contractors may have received from the sale of such lands as may have been sold.

11. No contract for the construction of any portion of the main line of the said railway shall be binding until it shall have been laid before the House of Commons for one month without being disapproved, unless sooner approved by a resolution of the House.

12. In case it shall be found by the Governor in Council more advantageous to construct the said railway or any portion thereof, as a public work of the Dominion of Canada, the construction thereof shall be let out by contracts offered to public competition, and the Governor in Council may establish from time to time the mode and regulations under which the contracts shall be given, and the railway or such portion thereof shall be constructed and worked after it shall have been completed, including the rates to be charged for freight and passengers; such regulations not being contrary to any of the provisions of the Acts regulating the Department of Public Works or to any other Act or law in force in the Dominion.

13. The branch railways shall be constructed as follows, that is to say: That section of the first branch extending from the eastern terminus of the first section of the said railway to some point on the Georgian Bay to be fixed as aforesaid, shall be constructed by contractors as a private enterprise on the same terms and conditions as provided with respect to the main line of the said railway, or any section thereof; or as a public work of the Dominion under such contract or contracts as may be agreed upon and sanctioned by the Governor in Council.

14. The Governor in Council may also grant such bonus or bonuses, subsidy or subsidies to any company or companies already incorporated or to be hereafter incorporated, not exceeding 12,000 dollars per mile, as will secure the construction of the branch lines extending from the eastern terminus of the said Canadian Pacific Railway to connect with existing or proposed lines of railway; the granting of such bonuses or subsidies to be subject to such conditions for securing the running powers and other rights over and with respect to the whole or any portion of the said branch railway, to the owners or lessees of the main line of the said railway or of any section thereof, or to the owners or lessees of any other railway connecting with the said branch railway as the Governor in Council may determine: But every order in Council granting such subsidy shall be laid before the House of Commons for its ratification or rejection, and shall only be operative after its ratification by resolution of the House.

15. The Governor in Council may, at any time after the construction of the said branch railway, make with the company or companies owning any portion of the said branch railway, such arrangement for leasing to such company or companies any portion of the said branch railway which may belong to the Government, on such terms and conditions as may be agreed upon, such lease not to exceed a term of ten years, and may also make such other arrangements as may be deemed advantageous for working the said railway in connection with that portion of the said branch railway belonging to such company or companies; provided no such contract for leasing the said branch railway, and no such agreement for working the said railway in connection with any

other railway shall be binding until it shall have been laid before the house of Commons for one month without being disapproved, unless sooner approved by a Resolution of the House.

16. The branch of the said railway, from Fort Garry to Pembina, in the Province of Manitoba, shall be built either as a private enterprise, on the terms and conditions on which the main line may be constructed, or as a public work of the Dominion, under such contract or contracts as may be agreed upon and sanctioned by the Governor in Council.

17. The Governor, by Order in Council, shall have the right to determine the time when the works on each section or sub-section of the said railway shall be commenced, proceeded with, and completed.

18. The Contractors shall furnish such information of the progress of the works as may be required by the Minister of Public Works, and such statistical details, accounts, and information, as may be required from them after completion.

19. The Minister of Public Works shall, within one month of the opening of each session, lay before the two Houses of Parliament a Report of the progress of the works, and of the sums expended, together with copies of all contracts entered into since the last Report made to Parliament, for the construction of the said railway or any portion thereof, or for the running or working of the same.

20. The Governor in Council shall have the power at any time to suspend the progress of the work until the then next Session of Parliament.

21. Out of the sums of money to be raised under the Act of the present Session, intituled "An Act to authorize the raising of a loan for the construction of certain public works, with the benefit of the Imperial guarantee for a portion thereof," and subject to the provisions of the said Act, the Governor in Council may from time to time apply sums not exceeding in the whole 2,500,000*l.* sterling out of the sum so raised with the Imperial guarantee,—and sums not exceeding in the whole 15,000,000 dollars out of the sum raised under the said Act without the Imperial guarantee, for the construction of the said railway, and the purposes of this Act.

22. Separate accounts of the money expended under this Act and of the sums proceeding from the sale of any of the lands appropriated by this or any other Act for the constructing or assisting in the construction of said railway and branches thereof, shall be kept by the Receiver-General, and all sums required for the carrying out of this Act shall be paid out of money, mentioned in this or the next preceding section, and not out of any other fund, except that the Governor in Council may (as provided by the Act last cited) authorize the advance, out of the Consolidated Revenue Fund, of such sums as it may be necessary to expend for the purposes aforesaid, before the said loans can be raised, such sums to be repaid to the Consolidated Revenue Fund out of the loans.

23. The Act entitled "An Act respecting the Canadian Pacific Railway," passed in the Session of 1872, by the Parliament of Canada, is hereby repealed.

44. This Act may be cited as "The Canadian Pacific Railway Act, 1874."

No. 15.

Lieutenant-Governor Trutch to the Earl of Carnarvon.—(Received August 5.)

(Telegraphic.) *August* 3, 1874.

UPON advice of responsible Ministers I accept, on behalf of British Columbia, arbitration offered in your despatch to Lord Dufferin, 18th June.* Please acknowledge.

No. 16.

The Earl of Carnarvon to Lieutenant-Governor Trutch.

(Telegraphic.) *August* 5, 1874.

YOUR telegram of 3rd August received.

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* No. 6.

No. 17.

The Earl of Dufferin to the Earl of Carnarvon.—(*Received August* 12.)

My Lord, *Ottawa, July* 31, 1874.

I HAVE the honour to transmit a copy of a despatch and inclosure from the Lieutenant-Governor of British Columbia, together with a Petition to Her Majesty therein referred from the inhabitants of Victoria, respecting the non-fulfilment by Canada of the terms of Union.

I have, &c.
(Signed) DUFFERIN.

Inclosure 1 in No. 17.

Sir, *Government House, British Columbia, July* 2, 1874.

I HAVE the honour to inclose a Petition to Her Majesty the Queen, upon the subject of the railway clause of the Terms of Union of British Columbia with Canada, together with a Resolution adopting the same, which is stated to have been passed at a public meeting recently held in Victoria.

These Documents have been placed in my hands under cover of a letter, a copy of which I also inclose, from Mr. M. W. T. Drake, subscribing himself as Chairman of the said meeting, and at his request, are transmitted to be forwarded for presentation to Her Most Gracious Majesty, through such channel as his Excellency the Governor-General may think proper.

I have, &c.
(Signed) JOSEPH W. TRUTCH.

The Hon. the Secretary of State,
Ottawa.

Inclosure 2 in No. 17.

Sir, *Victoria, British Columbia, June* 30, 1874.

I HAVE the honour to inclose to your Excellency, a copy of a Resolution which was passed at a large public meeting held at Victoria, together with the Petition therein referred to, and I have to request your Excellency to forward the Petition to its destination.

I have, &c.
(Signed) M. W. T. DRAKE.

The Lieutenant-Governor,
&c. &c. &c.

Inclosnre 3 in No. 17.

Resolution.

Moved by C. Morton, Esq., and seconded by J. F. McCreight, Esq., Q.C.

Resolved—

That the Petition as read be adopted by the Meeting, signed by the Chairman on their behalf, and forwarded through his honour the Lieutenant-Governor to Her Majesty the Queen with a copy of this Resolution.

(Signed) M. W. TYRWHITT DRAKE, *Chairman.*

Inclosure 4 in No. 17.

Petition.

To Her Most Gracious Majesty Queen Victoria, in Council assembled.

The humble Petition of your Majesty's most dutiful and loyal subjects, the inhabitants of Victoria,

Sheweth,

THAT since the year 1867 the subject of Confederation of the Colony of British Columbia with the Dominion of Canada was frequently discussed in the Legislative

Council of the Colony, and in the years 1868 and 1869 resolutions condemnatory of it were passed.

In 1870 a scheme was laid before the Legislative Council by the Governor, which ultimately resulted in the Colony being admitted into the Dominion upon the terms and conditions which received the approval of your Most Gracious Majesty and your Most Honourable Privy Council on the 16th of May, 1871.

The chief condition of those terms was, "That the Government of the Dominion undertake to secure the commencement simultaneously within two years from the date of Union of the construction of a railway from the Pacific towards the Rocky Mountains, and from such a point as may be selected east of the Rocky Mountains towards the Pacific, to connect the seaboard of British Columbia with the railway system of Canada; and further, to secure the completion of such railway within ten years from the date of Union.

And the Government of British Columbia agree to convey to the Dominion Government in trust to be appropriated in such a manner as the Dominion Government may deem advisable in furtherance of the construction of the said railway, a similar extent of public lands along the line of railway throughout its entire length in British Columbia, not to exceed, however, twenty miles on each side of said line, as may be appropriated for the same purpose by the Dominion Government from the public lands in the north-west Territories and the Province of Manitoba. Provided that the quantity of land which may be held under pre-emption right or by Crown Grant within the limits of the tract of land in British Columbia to be so conveyed to the Dominion Government shall be made good to the Dominion from contiguous public lands; and provided further that until the commencement within two years as aforesaid from the date of the Union of the construction of the said railway, the Government of British Columbia shall not sell or alienate any further portions of the public lands of British Columbia in any other way than under the right of pre-emption, requiring actual residence of the pre-emptor on the land claimed by him. In consideration of the land to be so conveyed in aid of the construction of the said railway the Dominion Government agree to pay to British Columbia from the date of the Union the sum of 100,000 dollars per annum, in half-yearly payments in advance.

The Union took place on the 20th July, 1871. On the 7th June, 1873, the Privy Council of Canada decided "that Esquimalt, in Vancouver Island, be fixed as the Terminus of the Canadian Pacific Railway, and that a line of railway be located between the Harbour of Esquimalt and Seymour Narrows, on the said island." By the same Order in Council application was directed to be made to his Excellency the Lieutenant-Governor of British Columbia for a reservation, and for the conveyance "to the Dominion Government in trust according to the eleventh paragraph of the Terms of the Agreement of Union of a strip of land twenty miles in width along the eastern coast of Vancouver Island between Seymour Narrows and the Harbour of Esquimalt, in furtherance of the construction of the said railway," which reservation was made accordingly on the 1st of July, 1873, by the Government of British Columbia. In this and all other respects the Government of British Columbia has fulfilled every condition required of them by the Terms of Union.

The Dominion Government have already broken their agreement by not commencing the railway within the time specified, that is, July 1873, and they now seek to vary the Terms of Union in such a manner as practically to leave it in their hands to say whether, and when the railway shall be commenced or completed as appears by Section 17 of the Canadian Pacific Railway Act, 1874, and by reference to the Preamble of the same Act, it is evident that the Dominion Government are unwilling to carry out the original compact, and the declared policy with regard to the railway is totally at variance with the Terms of Union of British Columbia.

British Columbia has persistently protested against the action of the Dominion Government on this question.

The only means of communication this Province now has with Ottawa is by the United States at a distance of more than 2,000 miles through foreign Territory, in addition to a sea voyage of 800 miles. And it is felt that the Dominion Government in delaying the commencement and speedy completion of the railway, are defeating the chief object of Confederation, *i.e.*, the immediate Union of the British North American Provinces.

The Dominion Government in failing to fulfil the Terms of Union have already seriously affected the welfare and prosperity of this Province, and caused great discontent, and created a want of confidence in the Canadian Government, and dissatisfaction with Confederation.

The desire of Her Majesty's Government that the British North American Provinces should be united, and the proposed construction of the railway under the sanction and desire of the Imperial authority, were the chief inducements to British Columbia to join the Confederation, relying on the certainty that she should have the protection of your Most Gracious Majesty in seeing that the Terms of Union should be faithfully carried out.

Your Petitioners therefore humbly pray your Most Gracious Majesty to take this, our Petition into your gracious consideration, and to act as Arbitrator, and see that justice be done to British Columbia.

And your Petitioners, as in duty bound, will ever pray, &c.

(Signed) M. W. TYRWHITT DRAKE, *Chairman*,
On behalf of a Public Meeting held at Victoria, British Columbia, June 18, 1874.

No. 18.

The Earl of Dufferin to the Earl of Carnarvon.

My Lord, *Sault St. Marie, July* 31, 1874.

IN further reference to your public despatch of the 18th of June,* which I communicated to my Ministers, I have the honour to inclose an approved Order in Council in which my Government sets forth more at large its views with respect to its pending dispute with British Columbia, and expresses a desire that your Lordship would use your good offices in promoting a settlement of the misunderstanding in accordance with the suggestion you have been good enough to make.

I have, &c.
(Signed) DUFFERIN.

Inclosure 1 in No. 18.

Copy of a Report of a Committee of the Honourable the Privy Council, approved by his Excellency the Governor-General on the 23*rd July,* 1874.

THE Committee of Council have had under consideration the despatch from the Right Honourable the Secretary of State for the Colonies,* relating to the proposed mission of a Member of the British Columbia Government to England, for the purpose of complaining of the alleged non-fulfilment of the terms of Union between that Province and the Dominion as to the construction of the Pacific Railway, and containing an offer on the part of Lord Carnarvon in the following terms:—"If both Governments should unite in desiring to refer to my Arbitration all matters in controversy, binding themselves to accept such decision as I may think fair and just, I would not decline to undertake this service," and further stating that he could not assume such duty, "unless by the desire of both parties, and unless it should be fully agreed that my decision, whatever it may be, shall be accepted without any question or demur;" concluding with a request that in the event of this offer being accepted a statement of the case should be prepared by each Government to be submitted for consideration.

The Committee advise that Lord Carnarvon be informed that the papers already transmitted to the Colonial Office, with the Minute of Council of July 8th, having special reference to Mr. Walkem's communication in Ottawa of the 15th July, convey substantially all that this Government have to say upon the subject, and that the Government would gladly accept his Lordship's offer if it were possible to define with any degree of exactitude the matter in dispute.

When the present Government assumed office, they found that the British Columbia Government had protested against the non-commencement of works of construction on the railway on or before the 20th day of July, 1873, as agreed to in the eleventh section of the Order in Council relating to the Union. They also found that the means taken by the late Dominion Government for proceeding with the works of construction had totally failed, although the works, preliminary to an actual commencement, had been prosecuted with all possible despatch.

There can be no question of the extreme difficulty involved in the survey of a line

* No. 6.

of railway across an uninhabited continent, a distance of 2,500 miles. To properly complete this survey and ascertain the best route for the railway would require, not two years simply, but at least five or six years, as all experience of works of this magnitude and character both in the Dominion and elsewhere has sufficiently demonstrated. The expenditure which had taken place up to that time was very large, exceeding 1,000,000 dollars, and yet the engineers had been quite unable to locate any portion of the line in the more difficult parts of the country to be traversed. Under these circumstances the Government conceive that there was no reasonable or just cause of complaint on the part of the British Columbia Government. No other steps could have been taken further than prosecuting the surveys until the assembling of Parliament towards the close of the month of March of this year.

The Government were then prepared with a new Bill, taking ample powers for proceeding with the works as expeditiously as the circumstances of the country would permit. No complaint, official or otherwise, has been made as to the sufficiency of this measure to accomplish the object in view.

It was distinctly understood by the British Columbia Delegation at the time the terms of Union were agreed upon, that the taxation of the country was not to be increased on account of this work beyond the rate then existing.

So anxious, however, were the present Government to remove any possible cause of complaint, that they did take means to increase the taxation very materially in order to place themselves in a position to make arrangements for the prosecution of the initial and difficult portions of the line as soon as it was possible to do so, and at the same time a special confidential agent was deputed to British Columbia for the express purpose of conferring with the Government of that Province, and to endeavour to arrive at some understanding as to a course to be pursued which would be satisfactory to British Columbia and meet the circumstances of the Dominion.

It should be mentioned that before the late Government left office it had been distinctly understood, as one of the results of the visit to England by the Directors of the Allan Company, that an extension of time of at least four years would be absolutely necessary. Mr. Walkem, of British Columbia, quite understood this; and there is reason to believe that it would have been assented to by all parties.

The proposal made through Mr. Edgar to the British Columbia Government is one which the Dominion Government think should have been accepted as reasonable and just, and as one quite in accordance with the moral obligations imposed on this Government, if not with the actual letter of the agreement.

It must be remembered that British Columbia earnestly petitioned the Dominion Government to modify the terms of Union in its own favour in relation to the construction of the Graving Dock. The Dominion Government cordially assented to provide the money for the construction of the work instead of abiding by the agreement to guarantee merely the Provincial Bonds for ten years, as provided by the terms of Union.

This at once shows the liberality of the Dominion Government, and their willingness to consider and meet exceptional circumstances wherever they existed. And this manifestation of liberality on the part of this Government they conceive should have been reciprocated in other matters by the Provincial Government. The Dominion Government were also willing to exceed the terms of Union by constructing a railway on the Island of Vancouver, although they were bound only to reach the "sea-board" of the Pacific.

At the present time the only violation of the terms of the compact which can be alleged is that the works of construction were not actually commenced on the 20th of July, 1873. But it is doubtful if even that allegation can be upheld. It was all but impossible to proceed more rapidly with the work of survey, and a very extravagant expenditure was the result of the haste already shown in endeavouring to locate the line. This may be understood from the fact that the surveys of the Inter-colonial Railway, 500 miles long, occupied not less than four years, though the route was through a settled country; and they were then very incomplete, causing subsequent serious embarrassments to the contractors, and the presentation by them of endless claims for compensation.

Mr. Walkem in his conversations admits frankly that the literal fulfilment of the terms for the completion of the line on a certain day in 1881 cannot be expected. The only questions therefore that can now arise are (1), whether due diligence and expedition have been exerted by the Dominion Government in the prosecution of the work; and (2) whether the offers of compensation for the alleged non-fulfilment of the terms were just and fair.

While expressing a very strong conviction that everything has been done that could possibly be done under the circumstances, and that the Dominion Government have shown a disposition to go far beyond the spirit of the engagement entered into with British Columbia, considering the expressions of opinion by Mr. Trutch as the delegate of British Columbia at the time of the Union, and the facts set forth in the several documents already forwarded to the Colonial Office, the Committee advise that Lord Carnarvon be informed they would gladly submit the question to him for his decision as to whether the exertions of the Government, the diligence shown, and the offers made, have or have not been fair and just, and in accordance with the spirit of the agreement.

The Committee advise that a copy of this Minute be forwarded to the Right Honourable the Secretary of State for the Colonies.

Certified,

(Signed) W. A. HIMSWORTH,
Clerk, Privy Council, Canada.

No. 19.

Colonial Office to Mr. Walkem.

Sir, *Downing Street, August* 15, 1874.

I AM directed by the Earl of Carnarvon to acknowledge the receipt of the Petition to the Queen, signed by yourself on behalf of the Executive Council of British Columbia, which you left with his Lordship on the occasion of your recent interview with him at this Office.*

After careful perusal of this clearly drawn and temperately expressed statement, and after hearing the further representations which you have since made orally, his Lordship feels that he has before him a full exposition of the views of the Provincial Governments, and he desires me to thank you for the judicious manner in which you have discharged the duty entrusted to you.

Lord Carnarvon will be much pleased if he can be the means of adjusting the differences which have arisen, but the subject abounds in details which require close examination, and his Lordship thinks it may be convenient to you to know that he does not anticipate that he will be able until after two or three weeks to come to a decision as to the course which he should take.

I am, &c.

(Signed) ROBERT G. W. HERBERT.

No. 20.

The Earl of Carnarvon to the Earl of Dufferin.

My Lord, *Downing Street, August* 16, 1874.

WITH reference to my despatch of the 18th June,† I have now to acquaint you that I have seen Mr. Walkem, the Premier of British Columbia, deputed by his Government to represent to me the claims of the Province relative to the delays which have occurred in the construction of the Pacific Railway, the completion of which work within a certain understood time was one of the principal considerations that influenced the Union of British Columbia with the Dominion of Canada in 1871. I will only add on this head that Mr. Walkem laid his case before me in temperate and reasonable terms.

2. I have also received a telegram from the Lieutenant-Governor of British Columbia stating that upon the advice of his Responsible Ministers he accepts, on behalf of British Columbia, the arbitration which I thought it my duty to offer, and the conditions of which I explained to your Lordship in my despatch of the 18th of June.

3. I have further received your despatch of the 31st July‡ inclosing a copy of the report of the Canadian Privy Council of the 23rd of July, in which your Ministers express their readiness to submit for my decision the question whether the exertions of the Dominion Government in the prosecution of the work, the diligence shown, and the

* No. 12. † No. 6. ‡ No. 18.

offers made by them to British Columbia have, or have not, been fair and just and in accordance with the spirit of the agreement entered into between Canada and British Columbia at the date of Union.

4. I appreciate the confidence which has been thus placed in me by both parties to this controversy, and, so far as lies in my power, I am most desirous of contributing to the settlement of a difference which, although hitherto conducted with great moderation and in a conciliatory spirit on both sides, might easily assume more serious dimensions.

5. I feel sure that the Dominion Government will agree with me, that the sooner this controversy can be closed, the better; and that to arrange matters amicably, and with as little resort as possible to formal procedure, will best promote that object, and will be most congenial to the feelings of all parties.

6. With this view I will proceed to state the case as I understand it, and the impressions which I have formed as to the course that might be taken. The proposals made by Mr. Edgar, on behalf of the Canadian Government, to the Provincial Government of British Columbia, may be stated as follows:—

(1.) To commence at once, and finish as soon as possible, a railway from Esquimalt to Nanaimo.

(2.) To spare no expense in settling, as speedily as possible, the line to be taken by the railway on the mainland.

(3.) To make at once a waggon-road and line of telegraph along the whole length of the railway in British Columbia, and to continue the telegraph across the Continent.

(4.) The moment the surveys and road on the mainland are completed, to spend a minimum amount of 1,500,000 dollars annually upon the construction of the railway within the Province.

7. I am under the impression, after conversing with Mr. Walkem, that he is not fully empowered, on the part of British Columbia, to make specific proposals to the Government of Canada, or to me, as to what terms British Columbia would be willing to accept; but he has stated very clearly, in conversation at this office, the objections entertained by his Government, and in the Province, to the proposals of your Government. And they, or a considerable part of them, are fully set forth in the Petition to the Queen, of which, as it has been published in the "Colonial Press," you no doubt have a copy.

Taking each point *seriatim*, as numbered in the last preceding paragraph but one, I understand it to be urged:—

(1.) That nothing is being done by the Dominion Government towards commencing and pushing on a railway from Esquimalt to Nanaimo.

(2.) That the surveying parties on the mainland are numerically very weak, and that there is no expectation in British Columbia, or guarantee given, on the part of the Dominion, that the surveys will be proceeded with as speedily as possible.

(3.) That the people of British Columbia do not desire the waggon-road offered by the Dominion Government, as it would be useless to them; and that even the telegraph proposed to be made along the line of the railway cannot of course be made until the route to be taken by the railway is settled.

(4.) That "the moment the surveys are completed," is not only an altogether uncertain, but, at the present rate of proceeding, a very remote period of time; and that an expenditure of 1,500,000 dollars a-year on the railway within the Province, will not carry the line to the boundary of British Columbia, before a very distant date.

8. Mr. Walkem further urges that, by section 11 of "The Canadian Pacific Railway Act of 1874," it is competent to the Dominion House of Commons to reject at any time the contract for a section of the railway, and thus to prevent the continuous construction of the work.

9. Referring first to this latter point, I do not understand that it is alleged by Mr. Walkem, nor do I for a moment apprehend that this proviso was introduced with any belief that it would delay the construction of the railway, I conceive that all that was intended by it was to retain the power of exercising an adequate supervision over the financial details of the scheme. Nevertheless, the objection stated by Mr. Walkem appears to me one which the Dominion Government should seriously consider, as their policy in so important a matter ought not to be left open to criticism, and British Columbia may fairly ask, according to the letter and the spirit of past engagements, for every reasonable security that the railway will be completed as speedily as possible.

10. Strong as are doubtless the objections urged by Mr. Walkem to the proposals which I understand Mr. Edgar to have made on behalf of your Ministers, and important as is the subject-matter of controversy, I, as at present advised, can see no reason why

the views of both parties should not be reconciled to their satisfaction, and with justice to all interests concerned.

11. On the one hand, I cannot entertain the least doubt of the sincere intention of the Canadian Government and Parliament to adhere as closely as possible to the pledges given to British Columbia at the time of the Union, to do that which is just and liberal towards the Province, and, in fact, to maintain the good faith of the Dominion in the spirit, if not in the letter, of the original agreement, under circumstances which I admit to be of no ordinary difficulty.

12. On the other hand, however, it would be unfair to deny that the objections stated by Mr. Walkem have a certain foundation and force, and I have every confidence that, in order to obtain the settlement of a question of such vital importance to the interests of the whole Dominion, the Canadian Government will be willing to make some reasonable concessions such as may satisfy the local requirements of British Columbia, and yet in no way detract from the high position which the Dominion Parliament and Government ought, in my judgment, to occupy.

13. I am of opinion, therefore, on a general review of all the considerations of the case, and as an impartial but most friendly adviser, who, if I may be allowed to say so, has the interests of both parties and the prosperity of the whole Dominion deeply at heart, that the following proposals would not be other than a fair basis of adjustment.

14. (1.) That the section of the railway from Esquimalt to Nanaimo should be begun at once.

(2.) That the Dominion Government should greatly increase the strength of the surveying parties on the mainland, and that they should undertake to expend on the surveys, if necessary for the speedy completion of the work, if not an equal sum to that which they would expend on the railway itself, if it were in actual course of construction, at all events some considerable definite minimum amount.

(3.) Inasmuch as the proposed waggon road does not seem to be desired by British Columbia, the Canadian Government and Parliament may be fairly relieved of the expense and labour involved in their offer; and desirable as, in my opinion, the construction of the telegraph across the Continent will be, it perhaps is a question whether it may not be postponed till the line to be taken by the railway is definitively settled.

(4.) The offer made by the Dominion Government to spend a minimum amount of 1,500,000 dollars annually on the railway within British Columbia as soon as the surveys and waggon-road are completed, appears to me to be hardly as definite as the large interests involved on both sides seem to require. I think that some short and fixed time should be assigned within which the surveys shall be completed, failing which some compensation should become due to British Columbia for the delay.

15. Looking, further, to all the delays which have taken place, and which may yet perhaps occur, looking also to the public expectations that have been held out of the completion of the railway, if not within the original period of ten years fixed by the Terms of Union, at all events within fourteen years from 1871, I cannot but think tha the annual minimum expenditure of 1,500,000 dollars offered by the Dominion Government for the construction of the railway in the Province is hardly adequate. In order to make the proposal not only fair, but as I know is the wish of your Ministers, liberal, I would suggest for their consideration whether the amount should not be fixed at a higher rate, say, for instance, at 2,000,000 dollars a-year.

16. The really important point, however, not only in the interests of the Province, but for the credit of the Dominion and the advantage of the Empire at large, is to assure the completion of the railway at some definite period, which, from causes over which your Ministers have had no control, must now, I admit, be much more distant than had originally been contemplated; and I am disposed to suggest as a reasonable arrangement, and one neither unfair to the Dominion nor to British Columbia, that the year 1890 should be agreed upon for this purpose. In making this suggestion I, of course, conclude that the Dominion Government will readily use all reasonable efforts to complete the line before any extreme limit of time that may be fixed. A postponement to the very distant period which I have mentioned could not fail to be a serious disappointment to the people of the Province and to all interested in its welfare; and I should not have suggested it were it not for the full confidence which I feel in the determination of your Ministers to do not merely the least that they may be obliged, but the utmost that they may be able in redemption of the obligations which they have inherited.

17. I have now only to repeat the strong desire which I feel to be of service in a matter, the settlement of which may be either simple or difficult according to the spirit

in which it is approached, a question directly bearing upon the Terms of Union may, if both parties to it will waive some portion of their own views and opinions, be well intrusted to the Imperial authority which presided over that Union, and not improperly, perhaps, to the individual Minister whose fortune it was to consider, and in some degree to shape, the details of the original settlement under which the Provinces of British North America were confederated, and British Columbia ultimately brought into connection with them. If, indeed, the expression of a personal feeling may, in such a case as this, be indulged, I may perhaps be allowed to say how sincerely I prize the recollection of the share which I was then permitted to have in that great work, how deeply I should grieve to see any disagreement or difference impair the harmony which has been so conspicuously maintained by the wisdom and good feeling of all parties, and how entirely your Lordship and your Ministers may count upon my best efforts in furtherance of every measure that can contribute to the strength and honour of the Dominion of Canada.

18. It will be very convenient if your Government should feel able to reply by telegraph, stating generally whether the modifications which I have proposed, and which seem to me consistent with the present conditions of the question and with the true construction of the policy adopted by them, are in the main acceptable to them, in order that no unnecessary delay may take place in bringing this matter to a conclusion.

I have, &c.
(Signed) CARNARVON.

No. 21.

The Earl of Carnarvon to the Earl of Dufferin.

My Lord, *Downing Street, August* 29, 1874.

I HAVE received and have read with much interest the report by Mr. Sandford Fleming, Engineer-in-chief, of the progress up to January 1874 of the explorations and surveys which have been made under his direction in connection with the Canadian Pacific Railway, which your Lordship has forwarded for my information.

I notice with satisfaction the generally favourable results obtained by the survey, and I congratulate the Dominion on the conclusions arrived at by the Engineer-in-chief as to the practicability of establishing railway communication across the Continent wholly within the limits of the Dominion, and the generally favourable engineering features of the country through which the railway will pass.

I have, &c.
(Signed) CARNARVON.

No. 22.

Lieutenant-Governor Trutch to the Earl of Carnarvon.—(Received September 1.)

My Lord, *Government House, British Columbia, August* 3, 1874.

I HAVE the honour to state that on the 28th ultimo I received and laid before my Responsible Advisers a copy of your Lordship's despatch of June 18th* to Governor-General the Earl of Dufferin upon the pending difference between this Province and the Government of Canada, in relation to the Railway Article of the Terms of Union, which despatch was transmitted to me by Lord Dufferin on the 3rd ultimo in accordance with your Lordship's instructions.

I now inclose a Minute of the Executive Council of this Province on your said despatch, and upon the advice of my Ministers therein expressed, I beg to signify my cordial acceptance on behalf of the Government of British Columbia of your Lordship's proffered arbitration in accordance in all respects with the conditions laid down by you in your said despatch, and to state that I have to day dispatched a telegraphic message to you to this effect, of which a copy is appended.†

* No. 6. † No. 15.

A copy of this despatch and the inclosures therewith will be sent by this mail to the Secretary of State for Canada for the information of the Governor-General of Canada.

I have, &c.
(Signed) JOSEPH W. TRUTCH.

Inclosure in No. 22.

Report of a Committee of the Honourable the Executive Council, approved by his Excellency the Lieutenant-Governor, on the 3rd day of August, 1873.

THE Committee of Council have had under consideration the proposal for a reference to arbitration of the question between the Province and the Dominion Government respecting the fulfilment of the Terms of Union contained in the despatch of 18th June, 1874, from the Right Honourable the Earl of Carnarvon, Her Majesty's Principal Secretary of State for the Colonies, to his Excellency the Governor-General, a copy of which has been transmitted for the information of your Excellency, and referred to them for report.

In this despatch the Secretary of State observes that he is strongly impressed with the importance of neglecting no means that can properly be adopted for effecting the speedy and amicable settlement of a question which cannot without risk and obvious disadvantage to all parties remain the subject of prolonged, and it may be, acrimonious, discussion.

That it has occurred to him that, as in the original terms and conditions of the admission of British Columbia into the Union, certain points were reserved for the decision of the Secretary of State, so in the present case it may be possibly acceptable to both parties that he should tender his good offices in determining the new points which have presented themselves for settlement.

That, if both Governments should unite in desiring to refer to his arbitration all matters in controversy, binding themselves to accept such decision as he may think fair and just he would not decline to undertake this service.

That the duty which, under a sense of the importance of the interests concerned, he has thus offered to discharge, is of course a responsible and difficult one, which he could not assume unless by the desire of both parties, nor unless it should be fully agreed that his decision, whatever it may be, shall be accepted without any question or demur.

The Committee concur with the Secretary of State in regretting that a difference exists between the Dominion and this Province in regard to the railway, and that it is most desirable for all parties that all the questions in controversy should receive a speedy and amicable settlement, and they are of opinion that a reference to arbitration is the course of all others most likely to lead to so desirable a result.

They therefore advise the cordial acceptance by your Excellency of the arbitration of the Secretary of State in accordance with the conditions laid down in his Lordship's despatch of the 18th June, 1874, and should this report be approved they recommend that the acceptance by this Government on behalf of British Columbia of the arbitration of the Right Honourable the Secretary of State for the Colonies be immediately communicated by your Excellency to that Minister by telegraph and by mail, and that copies of such communications be transmitted simultaneously to the Secretary of State for Canada for the information of his Excellency the Governor-General.

Certified,
(Signed) W. J. ARMSTRONG, *Minister of Finance, and Clerk to the Executive Council.*

No. 23.

The Earl of Carnarvon to the Earl of Dufferin.

My Lord, *Downing Street, September* 4, 1874.

I HAVE received your despatch of the 31st of July,* forwarding a Petition addressed to the Queen by the inhabitants of Victoria, British Columbia, at a meeting held on the 18th of June, and signed by the Chairman, respecting the non-fulfilment by Canada of the terms on which British Columbia became a Province of the Dominion

* No. 17.

I request that you will cause the petitioners to be informed that their Petition has been laid before Her Majesty, who has been pleased to receive it very graciously; and that the subject to which it relates is receiving the careful consideration of Her Majesty's Government.

I have, &c.
(Signed) CARNARVON.

No. 24.

Mr. Walkem to Colonial Office.

Office of the British Columbia Government, 4, Lime Street Square,
My Lord, *London, September 10,* 1874.

IN a letter of the 15th of August last,* acknowledging the receipt of the petition to Her Majesty of the Committee of the Executive Council of British Columbia, your Lordship was pleased to inform me that you did not anticipate that you "would be able, until after two or three weeks, to come to a decision as to the course which you should take" upon the subject matter of the Petition.

As the time mentioned has now expired, may I request your Lordship to be good enough to inform me of the conclusion, if any, which you may have arrived at.

I have, &c.
(Signed) GEO. A. WALKEM.

No. 25.

Colonial Office to Mr. Walkem.

Sir, *Downing Street, September 14,* 1874.

I AM directed by the Earl of Carnarvon to acknowledge the receipt of your letter of the 10th instant,† and to express to you his regret that he is not at present in a position to communicate to you any decision in regard to the petition of the Executive Council of British Columbia.

I am, &c.
(Signed) W. R. MALCOLM.

No. 26.

The Earl of Dufferin to the Earl of Carnarvon.—(Received September 30.)

My Lord, *Canada, September 18,* 1874.

IN acknowledging the receipt of your Lordship's despatch of the 16th of August,‡ in which you have been good enough to convey to me your opinion as to the modifications which might be introduced with advantage into the terms already proposed by my Ministers, for the settlement of the dispute now pending between this Government and that of British Columbia, I have the satisfaction of informing you that after a good deal of anxious deliberation Mr. Mackenzie and his colleagues have consented to adopt the several suggestions recommended to them by your Lordship, should it be found absolutely impossible to terminate the controversy in any other manner.

2. The general view of my Ministers on the various points referred to are set forth at large in the inclosed Order in Council, from which your Lordship will gather that it is with very considerable reluctance they have been induced to make these further concessions, feeling so strongly as they do that their original proposals fairly satisfied the requirements of the case.

3. I have no doubt, however, it will be felt throughout the country that the only mode by which the Dominion could be satisfactorily extricated from the false position in which she was placed by her Treaty obligations to fulfil engagements which were physically impossible of execution, was by a large and generous interpretation of the consequent claims against her.

* No. 18. † No. 24. ‡ No. 20.

4. I have further the honour to transmit a sketch map* of the area now under exploration in British Columbia, accompanied by a Memorandum by Mr. Fleming, the Engineer-in-chief, by which it will be perceived that every effort is being made to hurry forward the surveys with all possible despatch, and that the employment of any additional staff would uselessly increase the expense without forwarding the work.

I am, &c.

(Signed) DUFFERIN.

Inclosure 1 in No. 26.

Copy of a Report of a Committee of the Honourable the Privy Council, approved by his Excellency the Governor-General on the 17th day of September, 1874.

THE Committee of Council have had under consideration the despatch of the Right Honourable Lord Carnarvon, relating to the complaints of the British Columbian Government with respect to the Pacific Railway, and suggesting certain modifications of the proposals made by the Dominion Government, through Mr. Edgar, on the 8th of May last.

These proposals were prompted by a desire to provide against future difficulty in view of the then well ascertained fact that the terms of union had become impossible of literal fulfilment on the one hand, and, on the other hand, giving due weight to the very strong feeling entertained against the fatal extravagance which these terms involved to the country.

The proposals may be thus summarized :—

1st. To build a railway from Esquimalt to Nanaimo, on Vancouver Island, in excess of the terms of union, and to begin the work immediately.

2nd. To commence the construction of the railway on the Mainland as soon as the surveys could be completed, and to expend on the work not less 1,500,000 dollars annually.

3rd. To take the necessary steps meanwhile to secure the construction of a telegraph line across the continent on the located line for the railway, at the same time cutting out the railway track and building thereon a trail or road, which would subsequently become available as part of the permanent works.

The arrangements proposed by Lord Carnarvon embody some amendments. His Lordship suggests :—

1st. The immediate construction, as proposed, of the short line on Vancouver Island.

2nd. After the location of the line, the expenditure of 2,000,000 dollars on the Mainland, instead of 1,500,000 dollars.

3rd. The increase of the engineering force to double the number now employed ; the expenditure on the survey, if not of an amount equal to the proposed annual expenditure on construction, of some other specific sum ; the prescribing of a limited time for the completion of the survey ; and the payment of a sum of money as compensation in the event of its not being so completed.

4. The guarantee of the completion of the entire railway in 1890.

It is also suggested that the construction of the telegraph line and road need not be proceeded with, as Mr. Walkem does not consider either as of any use to the Province.

The Committee recommend that the first condition, which is precisely what was previously offered, be again concurred in.

In regard to the second proposal, the Committee recommend that Lord Carnarvon be informed (if it be found impossible to obtain a settlement of the question by the acceptance of the former offer) that the Government will consent that, after the completion of the survey, the average annual minimum expenditure on the mainland shall be 2,000,000 dollars.

There is every reason to believe now that a majority of the people of Columbia would accept the propositions previously made.

Judging from a petition sent from the Mainland, signed by 644 names (a copy of which petition is inclosed), there is almost an entire unanimity there in favour of these proposals ; and assurances were given very lately by gentlemen of the highest position on the island that the course of the Local Government would not meet general approval there.

An application was made by one prominent gentleman, an ex-member of Parliament,

* Not printed.

to the Government here, to know if the proposals made would still be adhered to, he pledging himself to secure their acceptance by the bulk of the people. It is, therefore, earnestly hoped that no change will be considered necessary, as it will be difficult to induce the country to accept any further concessions.

The third condition requires an increase of the engineer force employed on the surveying surface; the completion of the survey within a specific time; and, in case that time should be exceeded, the payment to the Province of a money compensation.

The Committee respectfully submit that the result aimed at by the foregoing suggestion is already being accomplished with the utmost dispatch admitted by the circumstances of the case.

The Chief Engineer was instructed to provide all the assistance he required, in order to complete the surveys within the shortest possible period, and he engaged a large force—a force larger, indeed, than can with profit be employed until the route is definitely determined.

Whatever may be the route finally chosen, the line will of necessity traverse a country with exceedingly rough topographical features for a distance of 500 or 600 miles, from the eastern slope of the Rocky Mountains to the extreme limit of the province on the Pacific.

The country is an immense plateau, which maintains its general elevation to within a few miles of the sea, but often rises into unshapely mountain ranges; some of these ranges tower to a height of over 9,000 feet.

The boundary of the plateau on the west is the Cascade Range; this forms a huge sea wall along the coast, and has interposed a much more formidable obstacle to the surveyors than the Rocky Mountains.

Attempts have been made at five or six points to pierce the barrier, but, except at the Fraser River, and at Bute Inlet, without success.

From the results of last year's explorations, the Bute Inlet route seemed on the whole to be the best; but it is not disassociated with serious difficulties. For a distance of 20 miles the ascent or grade is about 150 feet to the mile.

The straits which form the approach to the harbour from seaward are encumbered by islands, and, when reached, the harbour is found to be destitute of anchorage. The dangers of navigation are increased not alone by the precipitous and rocky shores, but by the rapidity of the tide, which rushes through the narrow channels with a velocity of from seven to nine miles an hour.

It was supposed, when work was resumed last spring, that a practicable route would be found from the point where Fleming's line touches the north branch of the Thompson River westward towards what is known as Big Bend, on the Fraser River, from which no serious impediment exists until the commencement of the rapid descent to the sea at Bute Inlet is reached. Had this supposition proved correct, it is probable the Government might have been prepared at the end of this year to proceed with the exact location of the line; but the explorations carried on to the close of July last resulted in the discovery of a high range of mountains which fill the country from near the junction of the Clearwater with the Thompson northward to the great bend of the Fraser, and, without a very long detour south or north, they bar the way to the west.

The chief engineer, therefore, advised a re-examination of the Fraser valley, or, more correctly speaking, ravine, inasmuch as no broad valley anywhere exists, the rivers in their courses having cleft ways for themselves through the rocks, which in some cases they have pierced to a depth of 1,500 feet, by a width of not more than a single mile, thus giving as the normal condition exceedingly precipitous banks.

This new examination of the Fraser River route will occupy at least the whole season.

A memorandum from the Chief Engineer will give the strength of the force, and show its distribution.

Nearly two seasons were passed in examining the Rocky Mountain range and the valley of the Columbia, in the endeavour to obtain a favourable pass. The result was that the explorers were driven north to what is known as Jasper House Pass.

These facts are mentioned to give some idea of the enormous labour involved, and the impossibility of placing a larger force in the field to do engineering work, when it is not yet known where the engineering work is to be done.

The exploratory survey must be tolerably complete before the exact location of any portion of the line can be contemplated or possible, and before plans can be made of bridges and other works of construction required, and nothing but the urgency of the contract so imprudently entered into with British Columbia would otherwise have induced the Government to employ more than half the force now engaged.

As pointed out in previous memorandum, the expenditure to the end of last year in British Columbia alone was considerably over half a million of money, more than the whole expenditure upon the 2,000 miles eastward of that Province.

The Chief Engineer was informed last winter that it was the desire of the Government to have the utmost expedition used in prosecuting and completing the surveys, and in the engagements which he has entered into these directions have been fully considered.

The fourth condition involves another precise engagement to have the whole of the railway communication finished in 1890. There are the strongest possible objections to again adopting a precise time for the completion of the line. The eastern portion of the line, except so far as the mere letter of the conditions is concerned, affects only the Provinces east of Manitoba, and the Government have not been persuaded either of the wisdom or the necessity of immediately constructing that portion of the railway which traverses the country from the west end of Lake Superior to the proposed eastern terminus on Lake Nipissing, near Georgian Bay. Nor is it conceived that the people of British Columbia could with any show of reason whatever insist that this portion of the work should be completed within any definite time, inasmuch as if the people who are chiefly, if not wholly, affected by this branch of the undertaking are satisfied, it is maintained that the people of British Columbia would practically have no right of speech in the matter.

It is intended by the Government that the utmost diligence shall be manifested in obtaining a speedy line of communication by rail and water from Lake Superior westward, completing the various links of railway as fast as possible, consistent with that prudent course which a comparatively poor and sparsely settled country should adopt.

There can be no doubt that it would be an extremely difficult task to obtain the sanction of the Canadian Parliament to any specific bargain as to time, considering the consequences which have already resulted from the unwise adoption of a limited period in the terms of union for the completion of so vast an undertaking, the extent of which must necessarily be very imperfectly understood by people at a distance.

The Committee advise that Lord Carnarvon be informed that, while in no case could the Government undertake the completion of the whole line in the time mentioned, an extreme unwillingness exists to another limitation of time; but if it be found absolutely necessary to secure a present settlement of the controversy by further concessions, a pledge may be given that the portion west of Lake Superior will be completed so as to afford connection by rail with existing lines of railway, through a portion of the United States and by Canadian waters, during the season of navigation by the year 1890, as suggested.

With regard to the ameliorating proposal to dispense with the formation of a road or trail across the country, and the construction of a telegraph line, on the representation of the British Columbia delegate that neither is considered necessary, it is proper to remark that it is impossible to dispense with the clearing out of a track and the formation of a road of some sort in order to get in the supplies for the railway; and the proposal was that so soon as the general route of the railway could be determined and the location ascertained, a width of two chains should be cleared out in the wooded districts, a telegraph line erected, and that a sort of road passable for horses and rough vehicles should be formed and brought into existence, not as a road independent of the railway, but as an auxiliary to, and necessary preliminary to railway construction,the cost incurred forming part, indeed, of the construction of the railway itself.

In so vast a country, where there are no postal facilities, and where there can be no rapid postal communication for many years hence, it is absolutely essential that a telegraph line should be erected along the proposed route, as the only means by which the Government and contractors could maintain any communication. The offer, therefore, to dispense with a telegraph line is one which cannot be considered as in any way whatever affording relief to the Dominion; the undertaking to construct the telegraph line must rather be looked upon as an earnest of the desire of the Government to do everything in reason in order to keep within the spirit of its engagement.

The intention of the Government will be seen from the following quotation from the Act of last Session.—

"A line of electric telegraph shall be constructed in advance of the said railway and branches along their whole extent respectively, as soon as practicable after the location of the line shall have been determined upon."

Having dealt with the modifications suggested by Lord Carnarvon, it is proper to notice *seriatim* the several grounds of complaint as stated in the despatch.

1st. "That nothing is being done by the Dominion Government towards commencing and pushing on a railway from Esquimault to Nanaimo."

The Dominion has no engagement to build such a railway, and, therefore, there can be no just complaint that it is not commenced. The construction of such a railway was offered only as compensation for delay in fulfilling the engagement to build a railway to the "Pacific Seaboard."

2nd. "That the surveying parties on the Mainland are numerically weak, and that there is no expectation in British Columbia, or guarantee given, that the surveys will be proceeded with as speedily as possible."

On this point it is sufficient to state that, as remarked elsewhere, the utmost expedition possible has been used, and that the allegations in the Petition are incorrect."

3rd. "That the people of British Columbia do not desire the waggon road offered by the Dominion Government, as it would be useless to them; and that even the telegraph proposed to be made along the line of the railway cannot, of course, be made until the route to be taken by the railway is settled."

It may be noticed in connection with this extraordinary statement that the construction of such a road was one of the conditions imposed by the Local Legislature in their resolutions adopted as the basis whereon to negotiate the terms of Union.

It would, therefore, seem that such a declaration now is intended more to lessen the value of the proposals made to British Columbia than to indicate public sentiment in the Province. As pointed out elsewhere, the work is practically a part of railway construction, and it is also confidently believed will be of very great advantage to the people generally.

4th. Mr. Walkem further urges, "That by section 11 of the Canadian Pacific Railway Act of 1874, it is competent to the Dominion House of Commons to reject at any time the contract for a section of the railway, and thus to prevent the continuous construction of the work."

This is simply a complaint that the present Government provided for parliamentary supervision over the letting of such vast contracts. It was contended by the opposition in 1872 that, in the matter of a contract for so large a work, for which the Dominion was to pay 30,000,000 dollars and allot nearly 60;000,000 acres of land, the formal sanction of Parliament should be obtained. Accordingly, when it became their duty, under altered political circumstances, to submit a new measure to Parliament in lieu of the one which had failed of success, they were bound to secure by statutory enactments full control to Parliament over the letting of the contract or contracts.

In all extraordinary contracts entered into by the Government of England or Canada, this course has been followed, as, for instance, in contracts for the conveyance of mails by ocean steamers.

It will also be apparent that no Government decision could prevent future parliamentary action.

The insertion of this section, therefore, is in pursuance of a well settled public policy not to permit the Executive too extensive powers without specific parliamentary sanction; and even the present opposition demanded that the restriction should apply to the minor works on the branches provided for in the Act.

Neither the Canadian Government nor Parliament can be suspected of having inserted such a clause for the improper purpose of using it to retard progress otherwise possible.

Nothing has occurred which could justify such a suspicion. Since the passage of the Act the Government have placed the grading of the Pembina branch under contract, and hope soon to place the Nipissing branch under contract.

The contracts for the telegraph line from Fort William to the existing telegraphic stations in British Columbia will be closed in a few days.

It only remains to say that the Government, in making the new proposals to British Columbia, were actuated by an anxious desire to put an end to all controversy, and to do what is fair and just under very extraordinary circumstances; and that these proposals embraced the most liberal terms that public opinion would justify them in offering.

It is proper further to remark that there has been no just cause of complaint at all, inasmuch as the report of the chief engineer shows that nothing more could have been done to forward the work.

The Act passed last session is a very complete one and amply provides for the construction of the railway, subject to the parliamentary supervision referred to.

The lot of British Columbia is cast in with the other North American Provinces, and it becomes the duty of all the Confederated Provinces to consider to some extent the

general welfare. It is especially the duty of the smaller provinces to defer somewhat to the opinions of the old and populous Provinces from which the revenue for the building of all such works is derived.

Certified,
(Signed) W. A. HIMSWORTH,
Clerk Privy Council.

Copy of Petition.

That in view of the action taken by an Association calling itself "The Terms of Union Preservation League," meeting in the City of Victoria, on Vancouver Island, in Petitioning Her Most Gracious Majesty the Queen, relative to the non-fulfilment of one of the conditions of the Terms of Union, and affirming in said Petition that Esquimalt, on Vancouver Island, had been decided to be the Terminus of the Canadian Pacific Railway, and that a portion of the line had been located between the Harbour of Esquimalt and Seymour Narrows, and praying that Her Majesty act as Arbitrator, and see that justice be done to British Columbia; we, the Undersigned, respectfully submit as follows:—

That, in our opinion, the Order of the Privy Council of Canada, of 7th June, 1873, is in no way binding upon your Excellency's present Government, and that a line of railway along the seaboard of Vancouver Island to Esquimalt is no part of the Terms of Union:

That in any arrangement which may be entered into for an extension of time for the commencement or completion of the railway, any consideration granted by the Dominion of Canada to the Province of British Columbia should be such as would be generally advantageous to the whole Province, and not of a merely local nature, benefitting only a section thereof:

That the League referred to, acting under the impression that further surveys may detract from the favourable opinion now entertained by the Engineers of the Bute Inlet route, are desirous of forcing your Excellency's Government into an immediate selection:

That we consider it would be unwise, impolitic, and unjust to select any line for the railway until time be given for a thorough survey of the different routes on the mainland, believing, as we do, that such survey must result in the selection of the Fraser Valley route, which is the only one that connects the fertile districts of the interior with the seabord:

That, as it is evident that the surveys are not yet sufficiently advanced to allow of an intelligent decision on the question of route being arrived at, we consider that a vigorous and immediate prosecution of the surveys by your Excellency's Government, to be followed in 1875 by the commencement of construction on the mainland, will be a faithful carrying out of the spirit of the Terms of Union:

Your Petitioners, therefore, humbly pray that your Excellency take the views expressed in this our Petition into your most favourable consideration.

Inclosure 2 in No. 26.

Memorandum for his Excellency the Governor-General.

Surveys in British Columbia.

THE following is a list of the engineering parties at present engaged in British Columbia in connection with the survey of the Canadian Pacific Railway:—

(A.) From Tête Jaune Câche, down the valley of the North Fraser towards Fort St. George. Engineer in charge, E. W. Jarvis.

(B.) From Fort George up the North Fraser to meet party (A). Engineer in charge, H. P. Bell.

(C.) From Fort George across to Tatla Lake. Engineer in charge, C. H. Gamsby.

(D.) From Yale along the Canons of the Lower Fraser. Engineer in charge, H. J. Cambie.

(E.) From Yale to Burrard Inlet. Engineer in charge, John Trutch.

(F.) From Dean Inlet across the Cascade Chain. Explorer, C. Horetsky.

(G.) From Fort George westerly through unexplored region to Gardener and Dean Inlets. Marcus Smith in charge of expedition.

On the accompanying map I have indicated by a green tint the position of the several parties, as well as the work under examination this year.

It is expected that about 450 miles of line will have been instrumentally surveyed in British Columbia during the present year, and probably not less than 700 miles in addition explored. The number of persoms of all grades engaged in the work of survey during the present season in the province of British Columbia is, as far as can be ascertained, about 300.

A large staff has been engaged on the work of exploration and surveying ever since July 1871.

The Commissariat Branch has required and employed each year about 400 mules and horses. At the date of last advices 350 of these animals were then actually at work in forwarding supplies to the surveying parties in different remote sections of the province.

Every effort has been made to obtain information respecting the engineering features of the country and enable the Government to come to a decision respecting the most eligible route for the railway.

The work of survey has, in fact, been unduly forced in order to get the desired information with the least possible delay.

(Signed) SANDFORD FLEMING,
Engineer-in-Chief.

Canadian Pacific Railway, Office of the Engineer-in-Chief,
September 15, 1874.

No. 27.

Mr. Walkem to the Earl of Carnarvon.

My Lord, *London, October* 31, 1874.

I NOW beg leave respectfully to offer, for your Lordship's consideration, a recapitulation and review of the main points of the question at issue between Canada and British Columbia, respecting the breach by the former of the Railway Agreement in the Terms of Union.

Although I have been favoured by your Lordship with many and lengthened interviews on this subject, I hope that the grave nature of the interests committed to my care, as well as the important influence which your Lordship's action at the present time is sure to exercise upon the political and industrial growth of the Province, will be of sufficient excuse for again troubling you.

A written communication of the kind proposed may also usefully serve to define more clearly some of the views, which I have advocated on behalf of the Province.

Before proceeding further, I trust that I may be permitted to tender the expression of my grateful sense of the attention with which your Lordship has been pleased to receive, not only the statement of the case of British Columbia set forth in the Petition of its Government, but also the comments upon it which I have from time to time made.

The Provincial Government will be glad to learn—what your Lordship has been good enough to state—that you have been gratified with the temperate spirit in which their case has been presented for the consideration of Her Majesty's Government.

It was, as I had the honour to mention at my first interview, with a strong feeling of regret, that the Government of the Province felt themselves under the necessity of seeking the advice and intervention of Her Majesty's Government in this matter. The Provincial Government desired to work in harmony with the Dominion Government, and I may safely say that such intervention would not have been sought, had a sufficient effort been made by the Dominion to comply with the spirit of the Railway Agreement.

The key to the general policy of Her Majesty's Government, in relation to British North America, is, so far as I understand, to be found in the preamble of the Act of Confederation, which briefly declares that "Union would conduce to the welfare of the Provinces . . . . . federally united . . . . . and promote the interests of the British Empire." The Imperial policy thus declared has also been the policy of Canada. British Columbia likewise has endeavoured on her part loyally to follow it. It is from a due regard for the principles laid down in the Confederation Act, and from a natural, and I hope, proper desire to protect her

own special interests as a Province, that British Columbia has protested against the non-fulfilment by Canada of the Railway Agreement of the Terms of Union.

This Railway Agreement, while purposely and in part framed, as I shall hereafter show, to promote the interests of British Columbia, is not an agreement for the construction of a railway within merely provincial limits for simply provincial purposes. It is an agreement of a much more comprehensive character designed, in fact, mainly to advance, and indeed to effect, a real Union and consolidation of the British Possessions on the Continent of North America. In the attainment of this great end, British Columbia is, owing to her present isolation, especially interested.

A short reference to a few facts which led to the Union of the Province with Canada will best explain her true position.

In pursuance of the general Confederation policy declared in 1867, Her Majesty's Government in 1869 addressed a despatch to the Governor of British Columbia, expressing a desire that British Colnmbia should be incorporated with Canada. This despatch not only restates the principles set forth in the Confedera- Act, but also shows in what respect they are peculiarly applicable to British Columbia. The following is a quotation from the despatch :—

"Her Majesty's Government," writes the Secretary of State, "anticipate that the interests of every Province of British North America will be more advanced by enabling the wealth, credit, and intelligence of the whole to be brought to bear on every part, than by encouraging each in the contracted policy of taking care of itself, possibly at the expense of its neighbour.

"Most especially is this true in the case of internal transit. It is evident that the establishment of a British line of communication between the Atlantic and Pacific Oceans is far more feasible by the operations of a single Government responsible for the progress of both shores of the Continent, than by a bargain negotiated between separate, perhaps in some respects rival, Governments and Legislatures. The San Francisco of British North America would under these circumstances hold a greater commercial and political position than would be attainable by the capital of the isolated Colony of British Columbia.

"Her Majesty's Government are aware that the distance between Ottawa and Victoria presents a real difficulty in the way of immediate Union. But that very difficulty will not be without its advantages, if it renders easy communication indispensable, and forces onwards the operations which are to complete it. In any case it is an understood inconvenience, and a diminishing one, and it appears far better to accept it as a temporary drawback on the advantages of Union, than to wait for those obstacles, often more intractable, which are sure to spring up after a neglected opportunity."

Here four propositions are laid down :—

1st. That the Canadian Federal system is based upon a union of the "wealth, credit, and intelligence" of the several Provinces, which will, when properly applied, promote the welfare of each.

2nd. That to secure this result, "easy * * * internal * * * communication" through British territory "is indispensable."

3rd. That the absence of this "easy * * * internal * * * communication," and "the distance between Ottawa and Victoria" constitute "a real difficulty in the way of immediate union."

4th. That this "real difficulty" will operate as a mere "temporary drawback on the advantages of union," as it will be sure to "force onwards" those "operations" necessary to remove it.

It is to hasten the removal of this "temporary drawback," and to "force onwards," in the sense of the above despatch, these necessary operations, which have been long deferred, that the Government of British Columbia have sought the intervention of Her Majesty's Government.

The strength of the above propositions, viewed in connection with the general confederation policy, was fully recognized by the then Government of the Dominion. They agreed with Her Majesty's Government, that without "easy communication" and "internal transit" between Ottawa and Victoria, the union of British Columbia and Canada could not be effective. Afterwards, when the whole matter was practically studied by the Government of the Dominion, it seems to have been their decided opinion that "easy communication" across the Continent could mean nothing less than a railway; and that, with respect to British Columbia, the

"temporary drawback on the advantages" of confederation, mentioned by Her Majesty's Government, should not be allowed to last for more than ten years from the date of Union.

Hence the Dominion undertook "to secure the commencement simultaneously," on the 20th July, 1873, "of the construction of a railway from the Pacific towards the Rocky Mountains, and from such point as may be selected, east of the Rocky Mountains, towards the Pacific, to connect the seaboard of British Columbia with the railway system of Canada; and further, to secure the completion of such railway within ten years from" July, 1871, And British Columbia, on her part, entered into certain obligations in favour of the Dominion, with regard to the public lands of the Province. The word "simultaneously," which appears in this agreement, was designedly inserted with two objects:—

1st. That Canada should commence construction works at the two most available points, and thus ensure the early and rapid progress of the railway; and

2ndly. That the admitted disadvantages under which British Columbia would labour until the completion of the main line should to some extent be counterbalanced by the benefits of early expenditure upon railway works in the Province.

The agreement thus entered into was inserted in, and formed the most essential part of, the Terms of Union mutually accepted, in 1871, by British Columbia and Canada. These terms were placed before the people of the Province at a general election. They were shortly afterwards considered and formerly approved by the Provincial Legislature. They were subsequently fully debated and accepted by both Houses of the Parliament of Canada; and they were finally sanctioned and ratified by Her Majesty in Council. No question, therefore, could have been more thoroughly ventilated; no conclusion more deliberately arrived at. As a strong practical proof of the continued interest felt by Her Majesty's Government in the success of the Confederation thus established, the Imperial Parliament, in July, 1873, guaranteed a loan of 3,600,000*l.*, to be raised by Canada mainly for the construction, among other public works, of the Canadian Pacific Railway.

It may now be useful to present to your Lordship a brief statement of the manner in which the conditions of the Railway Agreement have been observed.

The Petition of the Government of British Columbia shows the following facts:—

That the Province has fulfilled her part of the agreement; and has endeavoured to aid the Dominion Government to carry out their part;

That the Dominion Government have not, during the three years succeeding Union, made due effort to complete the railway surveys in British Columbia;

That the Dominion Government did not, on the 20th July, 1873, commence the "simultaneous" railway construction provided for in the agreement;

That they also have hitherto failed to commence any railway construction whatsoever in the Province, though they might have commenced such construction, as they admitted in May last that they were then in a position to begin the railway.

Some further circumstances connected with these matters are detailed in the Petition. It is therein shown that in June 1873 the Dominion Government selected the harbour of Esquimalt, on the Pacific, as the western terminus of the Canadian Pacific Railway; that they at the same time decided that a portion of the main line should be "located" between this terminus and Seymour Narrows; that some weeks prior to the day named in the Agreement for the commencement of the construction of the main line, they secured from the Provincial Government "in furtherance of such construction" a reserve of a valuable tract of land lying along this projected line and some 3,000 square miles in area; that, as already stated, no construction whatsoever was or has been commenced within the Province; that, the land so reserved has been thus rendered comparatively valueless to the Province, as it has ever since been closed to settlement and to the investment of capital.

Against the continuance of the above state of things, the Province, through its Legislature and its Government, from time to time entered protest after protest, but without effect, and without even eliciting any reply from the Dominion Government beyond a formal acknowledgment of the receipt of the despatch inclosing each protest. The last protest was forwarded in February of the present

year. Subsequently the correspondence took place which is appended to the Petition. From the questions raised by this correspondence, all those which are unimportant may be usefully eliminated. I propose, therefore (subject, perhaps, to a slight digression, where necessary), to confine my observations to the principal points in a letter from Mr. Edgar to myself, which contains certain proposals as regards railway matters.

The Provincial Government did not at the time understand that these proposals were officially made. They were subsequently withdrawn by the Dominion Government, and only at the moment of such withdrawal declared by them to have been made with their authority and on their behalf. The above letter, which thus became invested, though but for a brief time, with an authoritative character, is valuable as the only official intimation to the Provincial Government of the policy of the present Dominion Government on the subject of the Pacific Railway. In addition to certain proposals or offers to British Columbia, the letter contains important statements, and some specific admissions which favour the Provincial case.

I shall discuss these offers *seriatim*, and endeavour to ascertain their value taken in connection with the conditions attached to them, which conditions, as I shall afterwards show, virtually amount to a surrender by British Columbia of her existing railway agreement. I shall then offer some comments upon the above statements and admissions, using generally, as far as may be, the language in which they are expressed in the letter, in order to lessen the danger on my part of any inadvertent misconstruction of their meaning.

The offers made are as follows:—

No. 1. The Dominion will "commence construction from Esquimalt to Nanaimo immediately, and push that portion of railway on to completion within the shortest practicable time."

The offer to commence work immediately at Esquimalt (which, as already stated, was selected as the western terminus of the main line by an Order of the Privy Council of Canada as far back as June 1873) is simply an offer to do what the Dominion was bound to have done in July 1873, and what they might have done at any time since, and which they admit in this letter was quite practicable in May last. The offer, your Lordship will notice, is a very limited one. No definite provision is made for the extension of the main line beyond Nanaimo (about 60 miles from Esquimalt); nor, indeed, is any definite period fixed for the completion of even this short portion of the railway, which would take neither much time nor money to construct. The promise to complete it "in the shortest practicable time,"—a promise in effect attached to all the offers in the letter,—is one which, slightly qualified, is implied in the present and in every other agreement of a similar character, in which no stipulation is inserted for the performance of work within a given time. The phrase is much too elastic in its meaning to admit of any definite interpretation. It may, for the present, therefore, be fairly omitted from special consideration, except as some evidence of a general intention on the part of the Dominion Government. I must assume, what the language conveys, that the words "that portion of railway," means the Esquimalt and Nanaimo portion or part of the main railway, which is the only railway referred to in the letter. This would tend to show that the position of the terminus is not questioned. No other allusion to the terminus is made in the letter.

No. 2. The Dominion will prosecute and complete the surveys, and then determine "the location of the line upon the mainland."

This promise is reasonable on the face of it, but it is very vague. In May last the Government of the Dominion informed the Provincial Government that "there was no reason to believe that it would be possible to complete the surveys before the close of the year" 1874. The reasonable inference deducible from this statement is, obviously, that the surveys would be finished at the end of 1874. If a longer period had been deemed necessary for the purpose, the fact would have been stated. Considering the intimation thus given, and looking to the long interval of time that has elapsed without any decision as to the route having been arrived at, it might have been expected that the letter would have positively guaranteed the completion, in 1874, of these and all other indispensable surveys within the Province

at least, and have further placed beyond conjecture the commencement of construction works early in 1875. I have been informed by a railway engineer here that, as a matter of practice, the exploratory surveys settle the general bearing or course of a line of railway, and that the subsequent location surveys may be proceeded with at several points along such line simultaneously, and the work of construction be commenced at those points without waiting for the actual location of the whole line. Such being the case, there is no valid reason, in view of all the facts above stated, why this practice should not be followed with respect to the Pacific Railway. The general course of the railway, within the Province at least, should be determined this year, and location surveys, immediately followed by actual construction, should be commenced early in 1875 at various points on the mainland and on the island. This is what British Columbia, above all things, desires, and any definite arrangement which will secure her wants in this respect will give the Province much satisfaction.

No. 3. The Dominion will "open up a road and build a telegraph line along the whole length of the railway in the Province, and carry the telegraph wire across the Continent."

The performance of this offer, both as to the road and the telegraph line, would depend, in point of time, upon the performance of the preceding offer (No. 2), as the above works would, according to the letter, only be commenced after the completion of the surveys and the location (within the Province) of the whole line along which they are proposed to be constructed. The fact is known to your Lordship, that the road here meant is a waggon road intended, for a time, at least, to supply the place of the railway. A personal knowledge of the country justifies me in stating that a very large portion of the 50,000*l.* or 60,000*l.* required for its construction would be money simply thrown away. I can also unhesitatingly state that the road would, even as a temporary substitute for the railway, be wholly unacceptable to the Province at large, including the farmers and producers of the "interior," in whose interests, and for whose benefit, it is alleged that the offer is especially made. For the transport of supplies, and to meet engineering necessities along the line, as railway works progress, a merely passable road is necessary, and must be constructed; this, in fact, is all that is required. The telegraph line (when finished) would, doubtless, be useful, but its construction is a question which should be treated independently of the Railway Agreement. The railway is what is required, and the people of the Province would prefer seeing the time and money, which are proposed to be expended on the above works, appropriated to the larger and infinitely more beneficial enterprise.

No. 4. When "the surveys and road on the mainland can be completed, there shall be in each and every year . . . during the construction of the railway, a minimum expenditure upon the works of construction within the Province of at least 1,500,000 dollars;" and the Dominion "will proceed from the very first with all the works of construction," on the mainland, "that their engineers could sanction."

The expenditure above proposed may be considered, first, in relation to its amount; and next, with reference to the date of its commencement. The amount falls far short of what British Columbia has been led to expect. The cost of the line in British Columbia has been roughly estimated at 35,000,000 dollars (7,000,000*l.*). Assuming this estimate to be correct, and that ten years would see the completion of the railway, the Province, in accepting the Terms of Union, had a fair expectation of an average yearly expenditure within her limits of, say, 3,500,000 dollars (700,000*l.*). After a delay of over three years with its consequent loss to the Province, it is now proposed by the letter that this amount shall be reduced to the sum of 1,500,000 dollars (300,000*l.*). Again, dividing the whole cost 35,000,000 dollars (7,000,000*l.*) by this sum, a period of twenty-three and a-half years would be obtained as the time required for the completion of the Provincial section of the line alone, and this period would be only computed from the date when expenditure would be commenced, and not from the date of the letter. It is true that the expenditure proposed is to represent a minimum outlay, which, after several years, might for obvious reasons increase with the progress of the work, but I submit that, in estimating the value of this, or of any similar proposal, the

actual figures given—and not contingent amounts which might never be spent—must be the bases of calculation.

Moreover, not only is the proposed expenditnre inadequate, but the period when it is to be begin is left largely open to doubt. The letter states that the expenditure will follow the completion, "along the whole length of the railway in the Province," of the waggon road mentioned in offer No. 3. The completion of this road, in turn, has to depend upon the completion of all the surveys, and upon the location of the whole line on the mainland (see offer No. 2); and the completion of these surveys and the location of this line are, in point of time, wholly left open to uncertainty. It is stated, that from the "very first" construction work on the mainland will be done at such places as the sanction of the Engineers will warrant; but this sanction will naturally be deferred until the expenditure which has been proposed to cover construction work generally should be commenced. Taken throughout, no offer could well be more indefinite than the above.

Adding all the uncertainties mentioned to the fixed period of 23½ years (or even to a reduced period), it would appear that the above offer may be described as one for the postponment of the completion of the line within the Province for a lengthened period, possibly until some time in the next century.

Your Lordship will observe—what I must consider an important matter—that all the preceding offers refer and are strictly confined to the British Columbian portion of the railway. The letter is wholly silent as to the extension of the line beyond the eastern frontier of the Province. British Columbia is thus by implication virtually requested to surrender one of the elements most important to her in the contract, namely, the right to insist upon all rail communication with the Eastern Provinces.

I shall now, as proposed, make a few comments upon certain statements and admissions contained in the letter. Probably the most important of the former is the statement, that the Dominion Government "are advised by their engineers that the physical difficulties are so much grater than was expected, that it is an impossibility to construct a railway within the time limited by the Terms of Union, and that any attempt to do so can only result in wasteful expenditure and financial embarrassment." Upon this point the Provincial Government are without any information save what is afforded by the last Report, as published, of the Chief Engineer of the Dominion Government. A reference to this Report would lead the reader to a rather contrary conclusion to that above expressed. On page 34, section 5, the Chief Engineer makes the following statement:—"It may indeed be now accepted as a certainty that a route has been found generally possessing favourable engineering features, with the exception of a short section approaching the Pacific Coast; which route, taking its entire length, including the exceptional section alluded to, will on the average show lighter work, and will require less costly structures than have been necessary on many of the railways now in operation in the Dominion." It is worthy of notice that this Report, so favourable to the enterprise, is dated only some four months prior to the date of the letter now under discussion. During the interval between these dates, all surveys in the Province had been suspended.

I may further remind your Lordship that the Charter for the construction and completion of the railway in ten years from 1871, according to the Terms of Union, was keenly competed for by two separate combinations, including men of great railway experience, large capital, and high position in the Dominion. These Companies, apparently, did not consider the undertaking to make the railway within the stipulated time impracticable. On the contrary, up to February 1873, so eager was the competition, and so powerful were the organizations in point of wealth, influence, and ability, that the Dominion Government decided to give the charter to neither; and, upon the two Companies failing to amalgamate, as suggested by the Government, the Government, under certain powers conferred by Parliament, formed a new Company, based upon the principle that each province should be represented in the undertaking. To this new Company a charter was granted on the 5th of February, 1873. With the political or other causes which subsequently led to the surrender of this charter it is not my duty to deal. The strong fact remains that two responsible and rival Companies were willing, and a third undertook, to construct a through-line of railway to connect the east and west of the Dominion in eight years from February 1873. Neither in the Prospectus of the successful Company nor in the voluminous correspondence which took place previously between the two unsuccessful Companies on the subject of their respective claims to the charter, and of their

proposed amalgamation, was any doubt expressed as to the possibility of fulfilling this time obligation. Had such a doubt existed, it is fair to infer that the Dominion Government would have requested the assistance of the Province to remove it. No such request was, however, made.

With respect to the statement before your Lordship that the chartered Company considered an extension of four years necessary to place the financial success of the enterprise beyond doubt, the Provincial Government are without any information save what is contained in, or may be inferred from, the last paragraph of section 8 of the Charter granted to the Compamy, which reads as follows:—The Company "shall complete the whole railway within ten years from the said 20th of July, 1871, unless the last-mentioned period shall be enlarged by Act of Parliament, in which case the Company shall complete the whole railway within such extended period." Admitting, for the sake of argument, however, that such extension of four years was deemed necessary, the completion of the line would not have been deferred beyond 1885. The extract already quoted from the Engineer's Report, dated, as it is, about twelve months after the date of the Charter, and made after a further knowledge of the country had been acquired, tends strongly to confirm the views of the respective Companies that the completion of the railway was practicable 1881 or at the furthest in 1885.

The value of the above facts and correspondence is material as showing, in the first place, that it was considered all important that a definite period should be assigned for the execution of a work upon which Confederation hinges; and, in the next place, that 1881, or at most 1885, was a reasonable definition of that period.

The Province, after all her disappointments, above all things desires that the "prompt commencement, continuous prosecution," and early completion of the railway shall be definitely assured or, in the language of the letter, "be guaranteed." The Provincial Government, therefore, strongly, but respectfully, resist the contention of the Dominion Government that the commencement, prosecution, and completion of the line shall be left open to a doubtful and indefinite period.

The further opening statement in the letter that the Dominion Government are willing "to enter into additional obligations of a definite character for the benefit of the Province" may be said to have been disposed of, as the nature and character of these "obligations" have, in the analysis made of the offers, been already examined. I shall, therefore, pass on to what I have termed the admissions in the letter. The most important of these is an admission which may be inferred from the offer made by the Dominion Government to "commence railway construction immediately from Esquimalt to Nanaimo." Here it is admitted that the Dominion Government were in a position, at least in May last (the date of the letter), if not before, to have begun the railway in the Province. There is, and has been, therefore, no excuse for delay in pushing forward the work.

Of scarcely less importance is a second admission, which reads as follows: "to a country like British Columbia it is conceded, however, to be an important point that not only the prompt and vigorous commencement, but also the continuous prosecution of the work of construction within the limits of the Province should be guaranteed."

To these two admissions may be added a third and last: the Dominion Government, while conceding that railway construction should be commenced at the seaboard of the Province, consider it most important that every effort should be made by them to push forward the construction of the railway on the mainland, in order that the legitimate advantages of expenditure should as far as possible fall into the hands of the farmers and producers of the interior.

This is an object which the Provincial Government have much at heart, and strongly desire to see realized.

With the clear and just sense which the Dominion Government thus appear to have of what is due to the Province; with their full appreciation, on the one hand, of the wants of the interior, and, on the other, of the requirements of the Island, it might have been expected that they would, as "a Government responsible for the progress of both shores of the Continent," at least have given some more definite as well as some practical meaning to their expressions of solicitude for the welfare of the people of the Province.

I have thus dwelt upon the letter at considerable length, as your Lordship's attention has been specially directed to it in connection with the present case. I

conceive the following to be a synopsis of its offers and conditions: Canada will commence, on the Island, immediate construction of the Railway at Esquimalt, and finish about 60 miles of it (time of completion indefinite). On the mainland, she will prosecute the surveys for the remainder of the line, and finish these surveys (time also indefinite). She will thereafter "locate" the line falling within the Province (time also indefinite). When this can be achieved, she will make, along this "located" line, a waggon road (which the Province does not want), and a telegraph line (which the Province has not asked for), and will carry the latter across the Continent (time of completion of both road and telegraph line indefinite). Ultimately, after the completion of the surveys and of the road, but not before, Canada will begin, and will continue railway work in the Province, and spend thereon, year by year, not less than 300,000*l.* (Whether this sum will include the Esquimalt line or not is doubtful. It is the only expenditure offered. As I have shown your Lordship, Canada thus proposes to ensure to the Province the completion of the line within her limits in twenty-three and a-half years, or less, dating from the unknown period at which the offered expenditure can be commenced.) Canada will do all this work "in the shortest time practicable," a phrase a shade stronger than the words "with due diligence," three words, the construction of which has given rise to much doubt, and to much painful litigation. In consideration of these offers (if accepted), British Columbia shall—1st, abandon all claim to the completion of the Canadian Pacific Railway within a definite time; and, 2ndly, shall (virtually, though not quite so expressed) surrender her right to, and interest in, the completion of about 2,000 miles of the line necessary to connect the eastern frontier with eastern Canada. Apart from the very objectionable features of the last two conditions, the indefinite character of the above proposals made to the Province is in marked contrast to the statement of the Dominion Government that, "to a country like British Columbia," it is important that the early completion of the railway within her limits should be ensured; and, therefore, that a guarantee should be given by the Dominion Government for "its prompt commencement" (which depends on the prompt completion of the surveys), and also for "its continuous construction" (which depends on yearly specific expenditure). This concludes my remarks upon the letter.

I have endeavoured to place before your Lordship a full history of the position of British Columbia with respect to Confederation. A very unsatisfactory state of affairs has been disclosed, if the question be regarded simply as a question between the Dominion and one of her Provinces. On the part of the Dominion there have been delays, default, and avowal of default, followed by offers and conditions such as I have described.

The peculiar situation of British Columbia—her remoteness—her weak political position—her dependence on the good faith of the Dominion—the hopes that have been held out and deferred—the grievous loss that has ensued—the consequent utter prostration of her interests, all these give her claims upon Canada, which the present Dominion Government have, as already shown, to a certain extent acknowledged, in words. These claims, the Provincial Government hope, will not be overlooked by your Lordship in considering the reasonable measure of justice to which the Province is entitled under the Terms of Union. The Province has not expected anything that is unreasonable, and does not do so now. It is her urgent desire that matters should be forthwith placed on a fair business-like footing, and above all, on a footing of certainty, with proper safeguards to ensure that certainty, so that a good and cordial understanding may be restored and not again be disturbed.

I have, &c.
(Signed) GEO. A. WALKEM,
President of the Executive Council of British Columbia.

No. 28.

The Earl of Carnarvon to the Earl of Dufferin.

My Lord, *Downing Street, November* 17, 1874.

I DULY received your despatch of the 18th September,* inclosing an Order in Council setting forth the views of your Ministers as to the proposals contained in

* No. 26.

my despatch of the 16th August for the settlement of the controversy between Canada and British Columbia respecting the Pacific Railway. I subsequently again saw Mr. Walkem, and at his request I have delayed the announcement of the terms which, in my opinion, may properly be laid down as fair and reasonable, until the receipt of a further written communication from him, which has now reached me, and a copy of which I inclose.

The statements thus placed before me are so clear and complete as to assist me materially in appreciating the position in which the question now stands, and in judging without hesitation what modification of the original terms should be adopted. And I would here express my satisfaction at the temperate and forbearing manner in which points involving most important consequences have been argued on both sides, and the pleasure which I feel in being able to think that asperity of feeling or language may have been, in some degree, avoided through the opportunity of submitting the whole case to the independent judgment of one who may at least claim to have the interests of both parties equally at heart.

I explained very fully in my despatch of the 16th August the opinion which I entertained on each of the principal questions at issue, and I need now add but little to the simple statement of my decision. That decision is necessarily, as both parties are aware, in the nature of a compromise, and as such it may perhaps fall short of giving complete satisfaction to either. If, on the one hand, your Ministers, as you inform me, consent with reluctance to the further concessions which at an earlier stage I suggested, they will not, on the other hand, fail to bear in mind that even after those concessions are made British Columbia will receive considerably less than was promised to her as the condition of entering the Dominion. I prefer rather to reflect that under the amended terms now to be established, British Columbia will, after all, receive very great and substantial advantages from its union with Canada, while the Dominion will be relieved of a considerable part of those obligations which were assumed in the first instance without a sufficient knowledge of the local conditions under which so enormous and difficult an undertaking was to be carried into effect, and to fulfil which would seriously embarrass the resources of even so prosperous a country as Canada.

Adhering then to the same order in which, on the 16th August, I stated the principal points on which it appeared to me that a better understanding should be defined, I now proceed to announce the conclusions at which I have arrived. They are:—

1. That the railway from Esquimalt to Nanaimo shall be commenced as soon as possible, and completed with all practicable despatch.

2. That the surveys on the main land shall be pushed on with the utmost vigour. On this point, after considering the representations of your Ministers, I feel that I have no alternative but to rely, as I do most fully and readily, upon their assurances that no legitimate effort or expense will be spared, first to determine the best route for the line, and, secondly, to proceed with the details of the engineering work. It would be distasteful to me, if indeed it were not impossible, to prescribe strictly any minimum of time or expenditure with regard to work of so uncertain a nature; but, happily, it is equally impossible for me to doubt that your Government will loyally do its best in every way to accelerate the completion of a duty left freely to its sense of honour and justice.

3. That the waggon road and telegraph line shall be immediately constructed. There seems here to be some difference of opinion as to the special value to the Province of the undertaking to complete these two works; but after considering what has been said, I am of opinion that they should both be proceeded with at once, as indeed is suggested by your Ministers.

4. That 2,000,000 dollars a-year, and not 1,500,000 dollars, shall be the minimum expenditure on railway works within the Province from the date at which the surveys are sufficiently completed to enable that amount to be expended on construction. In naming this amount I understand that, it being alike the interest and the wish of the Dominion Government to urge on with all speed the completion of the works now to be undertaken, the annual expenditure will be as much in excess of the minimum of 2,000,000 dollars as in any year may be found practicable.

5. Lastly, that on or before the 31st December, 1890, the railway shall be completed and open for traffic from the Pacific seaboard to a point at the western end of Lake Superior, at which it will fall into connection with existing lines of railway through a portion of the United States, and also with the navigation on Canadian waters. To proceed at present with the remainder of the railway

extending, by the country northward of Lake Superior, to the existing Canadian lines, ought not, in my opinion, to be required, and the time for undertaking that work must be determined by the development of settlement and the changing circumstances of the country. The day is, however, I hope, not very distant when a continuous line of railway through Canadian territory will be practicable, and I therefore look upon this portion of the scheme as postponed rather than abandoned.

In order to inform Mr. Walkem of the conclusions at which I have arrived, I have thought it convenient to give him a copy of this despatch, although I have not communicated to him any other part of the correspondence which has passed between your Lordship and me.

It will, of course, be obvious that the conclusion which I have now conveyed to you upholds, in the main, and subject only to some modifications of detail, the policy adopted by your Government with respect to this most embarrassing question. On acceding to office your Ministers found it in a condition which precluded a compliance with the stipulations of Union. It became, therefore, their duty to consider what other arrangements might equitably and in the interests of all concerned be substituted for those which had failed. And in determining to supplement the construction of some part of the new railway by that vast chain of water communications which Nature might seem to have designed for the traffic of a great country, I cannot say that they acted otherwise than wisely. I sincerely trust that the more detailed terms which I have now laid down as those on which this policy should be carried out will be found substantially in accordance with the reasonable requirements of the Province, and with that spirit of generous and honourable adherence to past engagements which ought in an especial degree to govern the dealings of a strong and populous community with a feebler neighbour, and which I well know to be the characteristic of all parties and statesmen alike within the Dominion of Canada.

I have, &c.
(Signed) CARNARVON.

No. 29.

Colonial Office to Mr. Walkem.

Sir, *Downing Street, November* 17, 1874.

I AM directed by the Earl of Carnarvon to transmit to you a copy of a despatch which, after fully considering the representations made to him on the part of the Dominion Government and by yourself, his Lordship has addressed to the Earl of Dufferin on the subject of the Canadian Pacific Railway.* As this despatch contains a full explanation of the conclusions at which Lord Carnarvon has arrived, his Lordship does not feel it necessary to enter, on the present occasion, into any lengthened examination of the various points which you have pressed upon his notice from time to time.

It will be a source of deep satisfaction to Lord Carnarvon if the good feeling between Canada and British Columbia, to the maintenance of which you have contributed by the temperate and reasonable manner in which you have urged the claims of your Province, is permanently confirmed by the aid of his intervention.

I am, &c.
(Signed) ROBERT G. W. HERBERT.

No. 30.

The Earl of Carnarvon to the Earl of Dufferin.

My Lord, *Downing Street, January* 1, 1875.

I HAVE the honour to inform you that Her Majesty will not be advised to exercise her power of disallowance with respect to the following Acts of the Legislature of the Dominion of Canada, transcripts of which accompanied your despatch of the 23rd of September last:—

* No. 28.

No. 2, "An Act to authorize the raising of a loan for the construction of certain public works with the benefit of the Imperial Guarantee for a portion thereof."

No. 14, "An Act to provide for the construction of the Canadian Pacific Railway."

I have, &c.
(Signed) CARNARVON.

No. 31.

The Earl of Dufferin to the Earl of Carnarvon.—(Received December 30, 1874.)

My Lord, *Government House, Ottawa, December* 18, 1874.

I HAVE the honour to transmit to your Lordship a copy of an Order of the Privy Council, in which my Ministers convey to your Lordship their best acknowledgments for the pains and trouble you have been good enough to take in promoting the settlement of the differences which have arisen between British Columbia and the Government of the Dominion.

I have, &c.
(Signed) DUFFERIN.

Inclosure in No. 31.

Report of a Committee of the Honourable the Privy Council, approved by his Excellency the Governor-General on the 18*th December,* 1874.

THE Committee of Council have had under consideration the despatch of the Right Honourable Lord Carnarvon, Secretary of State for the Colonies, of November 17, conveying a statement of the new terms with British Columbia which, in his Lordship's opinion, may properly be laid down as fair and reasonable, concerning the construction of the Pacific Railway.

In the Minute of July 23 the Government of the Dominion advised that his Lordship should be informed of their willingness to leave it to him to say whether the exertions of the Government, the diligence shown, and the offers made, were or were not fair and just, and in accordance with the spirit of the original agreement, seeing it was impossible to comply with the letter of the terms of union in this particular.

The conclusion at which his Lordship has arrived "upholds," as he remarks, in the main, and subject only to some modifications of detail, the policy adopted by this Government on this most embarrassing question.

The Minute of Council of September 17 contained a statement of reasons showing why some of these modifications should not be pressed, but the Government, actuated by an anxious desire to remove all difficulties, expressed a willingness to make these further concessions rather than forego an immediate settlement of so irritating a question, as the concessions suggested might be made without involving a violation of the spirit of any Parliamentary resolution or the letter of any enactment.

The Committee of Council respectfully request that your Excellency will be pleased to convey to Lord Carnarvon their warm appreciation of the kindness which led his Lordship to tender his good offices to effect a settlement of the matter in dispute, and also to assure his Lordship that every effort will be made to secure the realization of what is expected.

Certified,
(Signed) W. A. HIMSWORTH,
Clerk, Privy Council.

No. 32.

The Earl of Carnarvon to the Earl of Dufferin.

My Lord, *Downing Street, January* 4, 1875.

I HAVE the honour to acknowledge the receipt of your despatch of the 18th of December,* forwarding to me a copy of an Order of the Dominion Privy Council, expressing the acknowledgments of the Government of Canada for the services which I have been fortunate enough to render in promoting the settlement of the differences which had arisen between British Columbia and the Government of the Dominion with respect to the construction of the Pacific Railway.

It has been with great pleasure that I have received this expression of their opinion, and I sincerely rejoice to have been the means of bringing to a satisfactory conclusion a question of so much difficulty, of removing, as I trust, all ground of future misunderstanding between the Province of British Columbia and the Dominion, and of thus contributing towards the ultimate completion of a public work in which they, and indeed the whole Empire, are interested.

I have, &c.

(Signed) CARNARVON.

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* No. 31.

APPENDIX.

No. 1.

Terms of Union between Canada and British Columbia.

CANADA shall be liable for the debts and liabilities of British Columbia existing at the time of the Union.

2. British Columbia not having incurred debts equal to those of the other Provinces now constituting the Dominion, shall be entitled to receive, by half-yearly payments, in advance from the General Government, interest at the rate of 5 per cent. per annum on the difference between the actual amount of its indebtedness at the date of the Union, and the indebtedness per head of the population of Nova Scotia and New Brunswick (27 dol. 77 c.), the population of British Columbia being taken at 60,000.

3. The following sums shall be paid by Canada to British Columbia for the support of its Government and Legislature, to wit, an annual subsidy of 35,000 dollars, and an annual grant equal to 80 c. per head of the said population of 60,000, both half-yearly in advance, such grant of 80 c. per head to be augmented in proportion to the increase of population, as may be shown by each subsequent decennial census, until the population amounts to 400,000, at which rate such grant shall thereafter remain, it being understood that the first census be taken in the year 1881.

4. The Dominion will provide an efficient mail service, fortnightly, by steam communication, between Victoria and San Francisco, and twice a week between Victoria and Olympia; the vessels to be adapted for the conveyance of freight and passengers.

5. Canada will assume and defray the charges for the following services:—

A. Salary of the Lieutenant-Governor;
B. Salaries and allowances of the Judges of the Superior Courts and the County or District Courts;
C. The charges in respect to the Department of Customs;
D. The postal and telegraphic services;
E. Protection and encouragement of fisheries;
F. Provisions for the militia;
G. Lighthouses, buoys, and beacons, shipwrecked crews, quarantine and marine hospitals, including a marine hospital at Victoria;
H. The geological survey;
I. The Penitentiary;

And such further charges as may be incident to and connected with the services which, by the "British North America Act of 1867," appertain to the General Government, and as are or may be allowed to the other Provinces.

6. Suitable pensions, such as shall be approved of by Her Majesty's Government, shall be provided by the Government of the Dominion for those of Her Majesty's servants in the Colony whose position and emoluments derived therefrom would be affected by political changes on the admission of British Columbia into the Dominion of Canada.

7. It is agreed that the existing Customs tariff and excise duties shall continue in force in British Columbia until the railway from the Pacific Coast and the system of railways in Canada are connected, unless the Legislature of British Columbia should sooner decide to accept the Tariff and Excise Laws of Canada. When Customs and Excise duties are, at the time of the union of British Columbia with Canada, leviable on any goods, wares, or merchandizes in British Columbia, or in the other Provinces of the Dominion, those goods, wares, and merchandizes may, from and after the Union, be imported into British Columbia from the Provinces now composing the Dominion, or from either of those Provinces into British Columbia, on proof of payment of the Customs or Excise duties leviable thereon in the Province of exportation, and on payment of such further amount (if any) of Customs or Excise duties as are leviable thereon in the Province of importation. This arrangement to have no force or effect after the assimilation of the Tariff and Excise duties of British Columbia with those of the Dominion.

8. British Columbia shall be entitled to be represented in the Senate by three members, and by six members in the House of Commons. The representation to be increased under the provisions of the "British North America Act, 1867."

9. The influence of the Dominion Government will be used to secure the continued maintenance of the naval station at Esquimalt.

10. The provisions of the "British North America Act, 1867," shall (except those parts thereof which are in terms made, or by reasonable intendment may be held to be specially applicable to, and

only affect one and not the whole of the Provinces now comprising the Dominion, and except so far as the same may be varied by this Minute) be applicable to British Columbia in the same way and to the like extent as they apply to the other Provinces of the Dominion, and as if the Colony of British Columbia had been one of the Provinces originally united by the said Act.

11. The Government of the Dominion undertake to secure the commencement simultaneously, within two years from the date of the Union, of the construction of a railway from the Pacific towards the Rocky Mountains, and from such point as may be selected, east of the Rocky Mountains, towards the Pacific, to connect the seaboard of British Columbia with the railway system of Canada; and further, to secure the completion of such railway within ten years from the date of the Union.

And the Government of British Columbia agree to convey to the Dominion Government, in trust, to be appropriated in such manner as the Dominion Government may deem advisable in furtherance of the construction of the said railway, a similar extent of public lands along the line of railway throughout its entire length in British Columbia, not to exceed, however, twenty miles on each side of said line, as may be appropriated for the same purpose by the Dominion Government from the public lands in the north-west territories and the Province of Manitoba. Provided that the quantity of land which may be held under pre-emption right, or by Crown right within the limits of the tract of land in British Columbia to be so conveyed to the Dominion Government, shall be made good to the Dominion from contiguous public lands; and provided further, that until the commencement, within two years, as aforesaid, from the date of the Union, of the construction of the said railway, the Government of British Columbia shall not sell or alienate any further portions of the public lands of British Columbia in any other way than under right of pre-emption, requiring actual residence of the pre-emptor on the land claimed by him. In consideration of the land to be so conveyed in aid of the construction of the said railway, the Dominion Government agree to pay to British Columbia, from the date of the Union, the sum of 100,000 dollars per annum, in half-yearly payments in advance.

12. The Dominion Government shall guarantee the interest for ten years from the date of the completion of the works, at the rate of 5 per cent. per annum, on such sum, not exceeding 100,000*l.* sterling, as may be required for the construction of a first-class graving dock at Esquimalt.

13. The charge of the Indians, and the trusteeship and management of the lands reserved for their use and benefit, shall be assumed by the Dominion Government, and a policy as liberal as that hitherto pursued by the British Columbia Government shall be continued by the Dominion Government after the Union.

To carry out such policy, tracts of land of such extent as it has hitherto been the practice of the British Columbia Government to appropriate for that purpose, shall from time to time be conveyed by the Local Government to the Dominion Government in trust for the use and benefit of the Indians on application of the Dominion Government; and in case of disagreement between the two Governments respecting the quantity of such tracts of land to be so granted, the matter shall be referred for the decision of the Secretary of State for the Colonies.

14. The Constitution of the Executive Authority and of the Legislature of British Columbia shall, subject to the provisions of "The British North America Act, 1867," continue as existing at the time of the Union until altered under the authority of the said Act, it being at the same time understood that the Government of the Dominion will readily consent to the introduction of responsible Government when desired by the inhabitants of British Columbia, and it being likewise understood that it is the intention of the Governor of British Columbia, under the authority of the Secretary of State for the Colonies, to amend the existing Constitution of the Legislature by providing that a majority of its members shall be elective.

The Union shall take effect according to the foregoing terms and conditions on such day as Her Majesty, by and with the advice of Her Most Honourable Privy Council may appoint (on addresses from the Legislature of the Colony of British Columbia, and of the Houses of Parliament of Canada, in the terms of the 146th section of "The British North America Act, 1867"), and British Columbia may in its address specify the electoral districts for which the first election of members to serve in the House of Commons shall take place.

No. 2.

[36 and 37 Vict., cap. 45.]

An Act to authorize the Commissioners of Her Majesty's Treasury to guarantee the Payment of a Loan to be raised by the Government of Canada for the Construction of Public Works in that Country, and to Repeal the Canada Defences Loan Act, 1870.

[21*st July*, 1873.]

WHEREAS one of the terms and conditions on which the Colony of British Columbia was admitted into union with the Dominion of Canada, by an Order in Council of the 16th day of May, one thousand eight hundred and seventy-one, was that the Government of the Dominion should secure the construction of a railway (in this Act referred to as the Pacific Railway) to connect the seaboard of British Columbia with the railway system of Canada, in manner more particularly mentioned in the Schedules to such Order:

And whereas the Government of the Dominion of Canada propose to raise by way of loan for the purpose of the construction of the Pacific Railway, and also for the improvement and enlargement of the Canadian canals, a sum of money not exceeding eight million pounds:

And whereas by an Act of the Parliament of Canada of the year 1868, chapter forty-one, the Governor in Council was authorized to raise by way of loan upon the guarantee of the Commissioners of Her Majesty's Treasury (in this Act referred to as "the Treasury"), for the purpose of the construc-

tion of the fortifications therein mentioned, sums not exceeding one million one hundred thousand pounds:

And whereas by the Canada Defences Loan Act, 1870, the Treasury were authorized to guarantee the payment of the principal of such loan and of interest thereon at a rate not exceeding four per cent. 33 & 34 Vict., c. 82.

And whereas no portion of the last-mentioned loan has been raised, and no such guarantee has been given:

And whereas it is expedient to authorize the Treasury to guarantee a portion, not exceeding two millions five hundred thousand pounds, of such loan of eight million pounds for the above-mentioned purposes, and to guarantee a further portion of the said loan not exceeding one million one hundred thousand pounds in substitution for a guarantee of a loan under the Canada Defences Loan Act, 1870:

Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as "The Canada (Public Works) Loan Act, 1873." **Short title.**

2. The Treasury may guarantee in such manner and form, and on such conditions as they think fit, the payment of the principal and interest (at a rate not exceeding four per cent. per annum) on all or any part of any loan raised by the Government of Canada for the purpose of the construction of the Pacific Railway, and the improvement and enlargement of the Canadian canals, so that the total amount so guaranteed from time to time do not exceed three million six hundred thousand pounds. **Power to Treasury to guarantee loan.**

3. The Treasury shall not give any guarantee under this Act unless and until provision is made by an Act of the Parliament of Canada, or otherwise, to the satisfaction of the Treasury— **Conditions of guarantee.**

(1.) For raising and appropriating the said proposed loan of eight million pounds:

(2.) For charging the consolidated revenue fund of Canada with the payment of the principal and interest of any loan guaranteed by the Treasury under this Act, immediately after the charge of the loan for fortifications created by the said Act of the Parliament of Canada of the year one thousand eight hundred and sixty-eight, chapter forty-one:

(3.) For payment by the Government of Canada of a sinking fund at the rate of one per cent. per annum on the entire amount of the loan guaranteed by the Treasury under this Act, and for charging the consolidated revenue fund of Canada with the payment of such sinking fund immediately after the principal and interest of the last-mentioned loan:

(4.) For charging the consolidated revenue fund of Canada with any sum issued out of the Consolidated Fund of the United Kingdom under this Act with interest thereon at the rate of five per cent. per annum, immediately after the said sinking fund:

(5.) For the due payment and application of the money raised by any loan guaranteed by the Treasury under this Act, in such manner as the Treasury from time to time direct:

(6.) For remitting to the Treasury the annual sums for the sinking fund by equal half-yearly payments, in such manner as they from time to time direct, and for the investment and accumulation thereof, under their direction, in the names of four trustees, nominated from time to time, two by the Treasury and two by the Government of Canada.

The Treasury may guarantee the loan in such portions as they think fit, and before guaranteeing any portion of the loan after the first, shall satisfy themselves that the portion of the loan previously guaranteed (or an equal amount of any other loan of the Government of Canada), together with an equal amount of that portion of the said loan of eight million pounds which is not guaranteed by the Treasury, has been or is in the course of being spent for the purposes mentioned in this Act.

4. The said sinking fund may be invested only in such securities as the Government of Canada and the Treasury from time to time agree upon, and shall, whether invested or not be applied from time to time, under the direction of the Treasury, in discharging the principal of the loan guaranteed by the Treasury under this Act, and the interest arising from such securities (including the interest accruing in respect of any part of any loan discharged by means of the sinking fund), and the resulting income thereof shall be invested and applied as part of such sinking fund. **Application of sinking fund.**

5. Every Act passed by the Parliament of Canada which in any way impairs the priority of the charge upon the consolidated revenue fund of Canada created by that Parliament of the loan guaranteed under this Act, and the interest and sinking fund thereof, and the sums paid out of the Consolidated Fund of the United Kingdom and the interest thereon, shall, so far only as it impairs such priority, be void, unless such Act has been reserved for the signification of Her Majesty's pleasure. **Alteration of Act relating to guaranteed loan.**

6. The Treasury are hereby authorized to cause to be issued from time to time, out of the growing produce of the Consolidated Fund of the United Kingdom, such sums of money as may at any time be required to be paid to fulfil the guarantee under this Act in respect either of principal or interest. **Issue out of Consolidated Fund.**

7. The Treasury may from time to time certify to one of Her Majesty's Principal Secretaries of State the amount which has been paid out of the Consolidated Fund of the United Kingdom to fulfil the guarantee under this Act, and the date of such payment; such certificate shall be communicated to the Governor of Canada, and shall be conclusive evidence of the amount having been so paid and of the time when the same was so paid. **Certificate of amount paid out of Consolidated Fund.**

8. The Treasury shall cause to be prepared and laid before both Houses of Parliament a statement of any guarantee given under this Act, and an account of all sums issued out of the Consolidated Fund of the United Kingdom for the purposes of this Act, within one month after the same are so given or issued, if Parliament be then sitting, or if Parliament be not sitting, then within fourteen days after the then next meeting of Parliament. **Accounts to be laid before Parliament.**

9. The Canada Defences Loan Act, 1870, is hereby repealed. **Repeal of 33 & 34 Vict., c. 82.**

FIRST REPORT

OF THE

SELECT COMMITTEE OF THE PARLIAMENT OF CANADA

ON

IMMIGRATION AND COLONISATION.

Colonial Office,
June, 1875.

JAMES LOWTHER.

(PRESENTED BY HER MAJESTY'S COMMAND.)

Ordered, by The House of Commons, *to be Printed,*
23 *June* 1875.

CANADA.

FIRST REPORT

OF THE

SELECT COMMITTEE OF THE PARLIAMENT OF THE DOMINION OF CANADA

ON

IMMIGRATION AND COLONIZATION.

The Committee respectfully submit the evidence they have obtained from various sources on the subject of Immigration and Colonization.

They learn with satisfaction from the information obtained from the evidence of Mr. Lowe, the Secretary of the Department of Agriculture, of the arrangement entered into between the four Provinces of Ontario, Quebec, New Brunswick, and Nova Scotia, with the Dominion Government, for centralizing in the Minister of Agriculture, the management of the agencies abroad, to promote immigration to Canada. Before this arrangement was agreed upon, the Dominion and Provincial Governments each maintained independent agencies; a system which led, in many cases, to waste of strength and divided counsels.

The duty of the several Provinces would seem naturally and properly to be to make provision for the care of immigrants after their arrival.

The actual immigration to Canada appears to have been less in 1874 than in the previous year, the total number of settlers being, in 1874, 39,373, against 50,050 in 1873, which was a year of exceptionally large immigration. In 1872 the number of settlers was 36,578.

The immigrants from the United Kingdom are stated to be of a class particularly suited to the country; there being a very large number of agricultural labourers, with their families.

It is noticeable that in 1874 there was an unusually large number of immigrants from the United States, as ascertained from entries of settlers' goods at Custom Houses along the frontier. The number was 14,110; a considerable proportion of these was understood to be repatriated French Canadians. This is a gratifying feature of the immigration of the year.

The Committee have learned, with satisfaction, that the Dominion Government have set aside four townships in the North-West to be appropriated in free grants to repatriated Canadians, and that exertions are being made to induce their return, as a specially valuable class of immigrants.

The Committee also learn, with satisfaction, of the successful settlement of a Mennonite colony in Manitoba, numbering 1,349 souls. It is expected that this number will be very much augmented during the coming season, Parliament having sanctioned a loan of $100,000 to assist in this immigration.

The Mennonites who settled in Manitoba last year arrived somewhat late in the fall, but they had considerable capital, and were enabled to make good preparations for the winter before it set in. It appears from letters received from them as late as the middle of February last, that they had not found the present unusually severe winter to be more severe than they expected, or more severe than winters which they had experienced in Russia. They were then well satisfied.

There seem to have been conflicting reports as to Mr. Ralston's colony on the Little Saskatchewan. The evidence, as given by the Secretary of the Department of Agriculture, is simply reported by your Committee. Further information appears to be necessary to enable a correct judgment to be formed.

As regards the efforts made by the Department of Agriculture to promote immigration to this country by the aid of the very considerable sums voted by Parliament for this purpose, they appear to have been active and satisfactory.

Publications to the number of 828,500 were distributed principally in the United Kingdom and on the Continent of Europe. Numerous lectures have been given by the agents of the Dominion, who appear to have been actively engaged in promoting emigration to Canada. The class of agricultural labourers and their families were assisted by Dominion passenger warrants, which enabled them to obtain their passages for 2*l.* 5*s.* sterling. In addition to this the Ontario refund bonus was further given in deduction of passage; and the Agricultural Labourers Society, in many cases, supplied the balance. In this way the country obtained a considerable number of immigrants who were without means of their own, but of a class of which it is the most in need.

The per capita cost to the Dominion of immigrants in 1874, was $7.14, but when to this the expenditure of the several Provinces is added, the total per capita cost was $13.18. In 1873, the total per capita cost of immigrants, Dominion and Provincial, was $10.21. This difference in cost per head arose from there being a larger number of immigrants in proportion to expenditure in 1873 than in 1874. In considering the per capita cost of immigrants, it should be borne in mind that it includes the expenses of all the Quarantine establishments, and the permanent immigration establishments both of the Dominion and the Provinces. These expenses form the bulk of the expenditure. They would necessarily have to be incurred if no efforts were made to promote immigration. It therefore follows that the per capita cost of immigrants is lessened or increased in proportion to the success of such efforts.

The total expenditure of the Dominion in 1874, was $281,413.11, and that of the Provinces $237,823.63. The total number of settlers, as before stated, was 39,373. In 1873 Dominion expenditure was $261,515.86, and that of the Provinces $249,735.82. The total number of settlers 50,050.

The Committee have noticed a statement made by Mr. Lowe, under the authority of the Honourable the Minister of Agriculture, to the effect that there is an intention to replace Mr. Adams, acting as the principal assistant of the Agent-General of Immigration, London, England, " by one of the Canadian agents that the Provinces had in Europe previous to the conference, or by some competent person, having personal knowledge of Canada, from Canada."

As regards the former of these proposals, they are of opinion, that the appointment of one of the Provincial Agents might possibly be a cause of jealousy as between the Provinces, and that it would be decidedly better, if possible, to appoint some person from this country, thoroughly acquainted with the practical working of emigration, and as little as possible identified with the present provincial organizations.

They consider, moreover, that the Chief Clerk or assistant of the Agent-General in England, should be a person having a sound personal knowledge of the Dominion and of its resources.

The Committee have had submitted to them the report of Mr. Andrew Doyle, Local Government Inspector, on the subject of emigration of pauper children to Canada, addressed to the President of the Local Government Board. This report, as appears from evidence submitted to the Committee, was transmitted to His Excellency the Governor General by the Secretary of State for the Colonies, with a request that it should receive the particular attention of the Canadian Government.

Mr. Doyle's report is adverse to the work which has been performed by Miss Macpherson and Miss Rye, in bringing out pauper and other children to settle among the population of Canada.

The Committee have heard the statements of Miss Macpherson and Miss Rye in rebuttal of the allegations of Mr. Doyle, and they append them to this report. The statements made by these ladies are contradictory to those of Mr. Doyle, and explanatory of their work.

The statements and explanations made by these ladies are strongly supported by the testimony of the Honourable Mr. Flint, Senator, the Honourable Mr. Vail, the Honourable Malcolm Cameron, and of Messrs. Gordon, White, Trow, Stephenson, Pettes, Thompson, Young, Norris, Orton, Plumb, and Jones, Members of the House of Commons, resident in the vicinities of the several homes. They testify from their personal knowledge to the correctness of the statements made by these ladies, and to the value of their work.

Honourable Mr. Justice Dunkin, P.C., formerly Minister of Agriculture, appeared before the Committee, and furnished it with a particular statement of the operations

of Miss Macpherson's Home at Knowlton, Quebec, which is under the management of his sister, Miss Barber.

He testified to the good management of the Knowlton Home, and the great care taken of the children.

He rebutted several of the more important statements of Mr. Doyle. The Committee particularly direct attention to his evidence, and to that of the Lord Bishop of Toronto, of Dr. Fuller, Bishop elect of Niagara, and of the Rev. Dr. McMurray, Rector of Niagara.

Mr. Gordon, a Member of the House of Commons, has addressed to the Committee a letter, respecting Miss Macpherson's scheme of immigration, defining propositions which he submits have been satisfactorily established, in rebuttal of the charges and allegations contained in the report of Mr. Doyle; and recommending that Parliament should aid, by pecuniary assistance, the work of this lady.

The Committee append the letter of Mr. Gordon as part of the evidence submitted.

They are of opinion, that, in as far as the public of Canada are concerned, the information which has been gathered by the Committee would be sufficient to establish that the work which has been done by Miss Macpherson and Miss Rye is, on the whole, of a satisfactory character; and that it results, with very little exception, in permanent advantage to the children who are brought out, and to the country which receives them.

The Committee would, however, recommend to the consideration of the Government, in view of the fact that the report of Mr. Doyle is based upon an inspection, although it would seem a partial one, whether it would not be better to cause a complete inspection to be made of the children who have been brought out by these ladies, to inquire into the accuracy of Mr. Doyle's report, and to set at rest any doubts; or to endeavour to obtain such inspection by the Local Governments, if it is thought that duty more properly belongs to them.

As regards aid in the form of passenger warrants or bonuses recommended to be given to assist the work of these ladies, the Committee are of opinion that it should be dealt with as favourably as any other Immigration to this country.

All of which is respectfully submitted.

C. H. POZER, Chairman.

Committee Room, House of Commons,
31st March 1875.

REPORT OF THE PROCEEDINGS OF THE COMMITTEE OF THE HOUSE OF COMMONS ON IMMIGRATION AND COLONIZATION.

General Immigration to the Dominion.

10th March 1875.

Mr. Lowe, the Secretary of the Department of Agriculture, appeared before the Committee.

Q. Upon what terms will emigrants be taken across the Dawson Route next season, and how many days will probably be occupied in the passage from Thunder Bay to Fort Garry?

A. The Department of Public Works has the charge of the Dawson Route, but as the question has reference to immigration, I have ascertained from that Department that, during the next season, adult emigrants will be carried from Thunder Bay to Fort Garry for $10 each, with an allowance of 100 lbs. of luggage, without extra charge; children under fourteen years for $5, with 50 lbs. of luggage, and children under three years free. The time that will be occupied in the journey cannot be stated with certainty, but all possible despatch will be used. The stages will leave Thunder Bay three times per week.

Q. Can you give the Committee any information as to the lands set aside for German Colonists in Manitoba?

A. Two townships were set aside for German Colonization in March 1873, at the request of the German Society in Montreal; but owing to difficulties in bringing out immigrants no settlement has been made, and the lands have reverted to the Government.

Q. Can you give the Committee any information relative to the townships set aside for Col. Shaw's colonies?

A. In November 1872, two townships were set aside for Col. Shaw, for settlement in Manitoba, at the request of the then Minister of Agriculture; but the conditions of settlement were not fulfilled, and the lands ceased to be reserved. I understand, however, he subsequently obtained another Order in Council for a further reservation of townships on the recommendation of the Minister of the Interior; but the Department of Agriculture has no official record respecting this.

Q. Can you give the Committee any information of Col. Shaw's proposed plan of settlement?

A. He proposes by means of a Joint Stock Company to raise money to pay the passages of immigrants, provide them with houses, implements and stock, and to get repayment and also profits by receiving annually a proportion of products raised by the settlers, to an extent agreed.

Q. Can you give the Committee any information respecting Mr. John Ralston's Colony—how many townships were set aside for him, and how much is he to be paid?

A. Four townships have been set aside for Mr. Ralston, not in the Province of Manitoba, but about 150 miles to the west of it, on the Little Saskatchewan. The land to be given to actual settlers who shall fulfil the requirements of the Lands Act, otherwise it will revert to the Government. The late Minister agreed to give Mr. Ralston $4 per head, to pay him for all charges for settlement in the summer of 1873; and also to allow his emigrants to pass free over the Dawson Route. These emigrants were all to be procured in the United States. He was not to be paid commission upon them until they had been settled one year in the colony. In 1874, Mr. Ralston represented that he could not make the colonization for $4 per head; and upon a consideration of the statements he made, it was agreed to give him $5 per head. The other conditions remained the same.

Q. How many emigrants has Mr. Ralston introduced?

A. He reports that he has 123 settlers.

Q. Will he be paid commission on his own statement of the number of his settlers?

A. No; he will only be paid on the certificate of the Government Agent of the number of settlers in the colony after one year's residence.

Q. Are you aware that the greater part of Mr. Ralston's emigrants did not proceed further than Fort Garry, and that he gathered part of them in Ontario?

A. It was reported to the Department that a portion of Mr. Ralston's emigrants were afraid of the grasshoppers and went back; but he denies positively that he took any from Ontario; and in fact he offers to forfeit all his claims if it can be proved that one of his emigrants was taken from the Province of Ontario.

Q. Do you believe that he has more than twenty-five emigrants in his colony?

A. I can only furnish the Committee with Mr. Ralston's statement. I have no reason to believe it or disbelieve it. I have heard some rumours, but I cannot say that they should be set against Mr. Ralston's own allegations. What is certain is, that if these are not correct, they will not benefit him. He will only be paid in the terms of the agreement with him; and that, as I have said, requires the certificate of the Government Agent to establish one year's residence. The place or places whence the emigrants came will also require to be satisfactorily established.

Q. Will not the money be wasted that was spent for conveying Mr. Ralston's immigrants over the Dawson route?

A. Yes; for those who did not stay in the country. But the risk run was not greater than that in the case of other immigrants from abroad at the time the agreement was made with Mr. Ralston. The Government at that time, acting on the recommendation of a former committee on immigration, did offer to allow all immigrants from abroad to pass free over the Dawson route. Very few, however, availed themselves of the privilege; and it has since been withdrawn.

Q. Were they not fed as well as carried free?

A. The agreement was not to feed Mr. Ralston's immigrants. But meals were furnished them on the Dawson route. There was, however, the pressure of necessity. Had meals not been furnished there would probably have been suffering from starvation.

Q. How many Mennonites settled in Manitoba during last season, and what was their character?

A. The number of families who settled during last season was 258, and the number of souls 1,349. They arrived late in the season, but the Government Agent reports they went actively to work and became well prepared for the winter before it set in. They appear, from the reports, to be very industrious settlers, and to have brought considerable capital with them. There is information in the form of letters received from them up to the date of the middle of February last that they had not found the present severe winter to be more severe than they expected; or more severe than they had experienced in Russia. They were then well satisfied. The total number of Mennonites who arrived in the Dominion in 1874, was 1,532. 183 arrived too late to go to Manitoba last fall. They will go next spring. More are expected.

Q. Is it true that the Russian Government are taking steps to prevent the emigration of Mennonites?

A. They are averse to it; and I learn from correspondence with the Mennonites that concessions are made with a view to prevent the emigration, but confidence has been in a great measure destroyed by an ukase promulgated; and the emigration will probably take place. Their brethren in Ontario purpose to assist them by means of a loan which they have negociated with the Government of $100,000, and to which Parliament has already given its assent.

Q. Did not those who have arrived pay back some money advanced?

A. Yes; an amount of $5,158 was collected for the Department by Mr. J. Y. Shantz. This money was promptly and cheerfully paid, and afforded an evidence of good faith in meeting obligations.

Q. What were the terms on which they were brought out?

A. The terms and conditions were fully stated in the Report of the Department of Agriculture laid before Parliament at its last session, and they have not been departed from.

Q. Did the total immigration of 1874 equal the expectations that were entertained?

A. It exceeded the expectations that were entertained; but the number was not so large as in 1873, which was a year of unusually large immigration. The kind of immigrants who came in 1874 was, moreover, eminently suited to the country. It consisted in large measure of agricultural labourers and families.

Q. Were these immigrants assisted?

A. Yes; the agricultural labourers families received the 2*l.* 5*s.* passenger warrants issued by the Government, and the Province of Ontario also rendered a further assistance of 1*l.* 4*s.* 8*d.* The passage was thus reduced to about 1*l.* per adult, and this balance was generally furnished by the society of Agricultural Labourers.

Q. Was not the price of passage generally less last year than previously?

A. Yes. Owing to the breaking up in May last of what was known as the North Atlantic Steamship Conference; that is, a combination or trades' union of the owners of all the great lines of steamships crossing the Atlantic, to fix uniform rates of freight and passage between ports in Europe and ports in Canada and the Northern United States. The rate of emigrant fares fixed by the combination was 6*l.* 6*s.*, but it fell to about 3*l.* in consequence of the rupture.

Q. Is the combination now in existence?

A. It has not yet been reconstructed, but it is expected that it will be, and it is thought the rate of emigrant fare will be 5*l.* But I cannot announce this.

Q. How many immigrants arrived in Canada in 1874?

A. The total number of arrivals was 80,022, but a large proportion of these were simply passengers through the country. The number of settlers in the country in 1874 was 39,373, against 50,050 in 1873, and 36,578 in 1872. There was a large number of immigrants from the United States in 1874. This, as ascertained by the entries of settlers goods at the Custom Houses along the frontier, was 14,110.

Q. Were these French Canadians returning?

A. A very considerable portion of them were, but I cannot state precisely how many.

Q. What efforts were made to induce French Canadians to return?

A. There was an agent, Mr. Gendreau, sent to the United States in 1873; and again, in 1874, Dr. Whiteford, of Detroit, had a similar mission confided to him. The duty of both these gentlemen was principally to induce the return of French Canadians, but it was not exclusively confined to them.

Q. Has there not been a readjustment made of the arrangements for promoting immigration as between the Dominion and the Provinces?

A. Yes; a conference of representatives of the Governments of the four Provinces of Ontario, Quebec, New Brunswick, and Nova Scotia was held in the Department of Agriculture in November last, the result of which was an agreement to centralize in the Minister of Agriculture the efforts made to promote immigration to Canada from abroad; it being understood that the Provinces would devote particular attention to the care of immigrants after arrival. Before the agreement which was made at the conference, the Dominion and the several Provinces had separate agencies abroad, which were independent of each other, and it was felt that this led to waste of strength, and in many cases to divided counsels. All the agents in the United Kingdom and on the continent will be hereafter under the superintendence of the Agent-General of the Dominion in London acting under instructions from the Department of Agriculture.

Q. Has the Province of Ontario ceased to send agents to Europe?

A. Practically, the effect of the agreement of the four provinces, parties to the Immigration Conference, will be to make the Province withdraw its agents. But as a matter of fact it has still some emigration agents in Europe, the right to send them being reserved by the agreement entered into at the conference. These agents, however, are, by that agreement placed under the direction of the Agent-General, at London.

[*By Hon. Mr. Pope:*—]

Q. Who pays the salaries of such agents?

A. Ontario pays the salaries of its special agents.

Q. And they act under the instructions of the Agent-General?

A. Yes.

Q. But don't you suppose that they will recognize as their masters those who pay them, and is there not danger of conflict of authority?

A. They will, of course, look to the Ontario Government which employs and pays them, but if that Government places them under the direction of the Dominion authorities, there will be that much centralization.

Q. Did not Mr. Dixon formerly afford assistance to the Provincial Agents?

A. Yes; he afforded them printed and other information and gave them generally all the advantages they could derive from his office; but they were quite independent of his control. It is true, moreover, that Mr. Dixon had considerable direct correspondence with the Provincial Governments on the subject of immigration, and received direct remittances from them to promote it.

Q. You say the Provincial Agents were not under Mr. Dixon's control, but when any of them got into difficulties on the continent who helped them out?

A. On such occasions the correspondence was direct with Mr. Dixon as the Canadian agent. The distinction of agents for the Provinces as separate from the Dominion did not seem to be recognized.

Q. Were not the Provincial Governments always averse to yielding up their privileges on the subject of immigration?

A. Yes; they always showed the greatest reluctance to give up any of the concurrent powers conferred on them by the Act of Confederation; but it was seen during the last year that the employment of Provincial and Dominion agents in the same places, not only led to waste of strength, but in some cases to actual conflict of opinion, which was bewildering to intending immigrants, and therefore injurious. It was the perception of this fact that led to the memorandum of agreement to which I have referred, at the conference in November last.

[*By other members of the Committee:*—]

Q. What publications were issued by the Department during the last year?

A. I have brought with me a list as requested:—

500,000	Small maps of Canada	English.
70,000	"What Canada Produces"	„
50,000	"Shantz's Journey to Manitoba"	„
20,000	"Spence's pamphlet on Manitoba"	„
40,000	"Canada the place for Emigrants"	„
16,000	"Cull's Beet-root and Beet-root Sugar"	„
5,000	"Year Book, 1874"	„
700,000		
10,000	"Spence's Manitoba"	French.
2,000	"Shantz's Journey to Manitoba"	„
12,000		
80,000	Prof. Kaderley's Report on Canada (circulated in Germany)	German.
5,500	Mack's "German in Canada"	„
85,500		
30,000	"Pamphlet on Canada" (circulated in Norway and Sweden)	Scandinavian.
30,000		
828,500	Total Publications.	

Q. What new publications did the Department print?

A. It caused information up to the latest period to be inserted in the pamphlets it issued; and there is a new pamphlet, consisting principally of extracts from speeches of the Governor General in so far as they relate to the institutions and features of the country during his recent tour through Ontario. The remarks of His Excellency had the advantage of being fresh observations, and having the authority of his reputation and position. Very extensive republications from these extracts have been made in Great Britain.

Q. Where were these publications principally circulated?

A. Principally in the United Kingdom and the continent of Europe.

Q. Were any circulated in Canada?

A. Yes; to some extent, especially the pamphlets relating to Manitoba; and also in the United States.

Q. Have the letters written by Mr. Trow, descriptive of his visit to Manitoba, been published in pamphlet form by the Department?

A. No; but they are now before the Department. A complete collection of the letters was only received a few days ago.

[A member suggested that the Committee ought to recommend the publication of this series of letters by the Department, as they contained very valuable observations on the Province of Manitoba.]

Q. Were there any other publications or means taken to furnish information respecting Canada as a field for immigration?

A. Yes; the special agents of the Department were very active in delivering lectures, and generally by other means in aiding to promote immigration. The lectures of the Dominion agents were very

extensively published by the newspapers throughout the United Kingdom ; and I may almost say that acres of these reports have been furnished to the Department. They have been a very valuable means of spreading information concerning Canada. I may remark, also, that the steamship companies and the agents of these companies, especially the Allans, have printed and circulated an immense number of small pamphlets and extracts from pamphlets or letters on slips, together with handbills. I cannot state to the Committee the precise number of all these, but I have reason to believe it is over three millions. The Agent-General has also caused to be published, in sheet form, reports of some of the more important meetings. In France and other parts of the continent of Europe, there has also been an active publication of writings bearing on the subject of emigration to Canada. There is yet much to do to make Canada thoroughly known, and it will probably require a long time to do so.

Q. What is the cost to the country, per head, of the immigrants who have arrived?

A. The total Dominion expenditure for the service of immigration in 1874, including quarantine, and all the establishments in this country and abroad, was $281,413.11 ; the total number of immigrants reported by the agents to have settled in the country in that year was 39,373; the cost per head was, therefore, $7.14 to the Dominion. But the expenditure of the Provinces is to be added to get the total *per capita* cost of immigrants. This amounted to $237,823.63, of which Ontario spent $108,878.77 ; Quebec, $48,978 ; New Brunswick, $71,466.86 ; and Nova Scotia, $8,500. Adding the Dominion and Provincial expenditure together, the total expenditure was $519,236.74. The total *per capita* cost of immigrants in 1874 was, therefore, $13.18. In 1873 the *per capita* cost was $10.21, the total expenditure for the Dominion and the Provinces being $511,251.78. The total expenditure in 1873 was very slightly less than that of 1874. But the number of immigrants reported to have settled in Canada was much greater, being 50,050, thus making the *per capita* cost much less. It may be remarked that a very large proportion of the expenditure of both years would have to be made for the permanent establishments, both Dominion and Provincial, whether or not there were any special exertions or costs incurred for promoting immigration to Canada. The figures I have given include all the permanent establishments, both Dominion and Provincial, and also the Quarantine establishments. I may add that in addition to the immigration expenditure by the Department of Agriculture there have been considerable expenses incurred by the Department of Public Works for the erection, extension and maintenance of immigrant buildings.

Q. What are the Agent-General's duties in connection with immigration?

A. Mr. Jenkins' duties in connection with immigration are, by the terms of an Order in Council, generally to superintend, under directions to him from the Minister of Agriculture, all matters pertaining to that subject. The principal of these are the instructing of agents ; the issue of passenger warrants; the supervision of all operations connected with the departure of emigrants ; and generally any arrangements by which immigration to Canada may be promoted. The immigration interests and agents of the Provinces, parties to the Immigration Conference of November last, follow precisely the same rule.

Q. Who acts as Deputy in the absence of the Agent-General of Immigration?

A. There is no Deputy. Mr. Francis Adams has temporarily acted as the principal assistant of the Agent-General, and Mr. Albert Jourdain is the Chief Clerk in the Immigration Branch of the London Office.

Q. Who appointed Mr. Adams, the gentleman acting temporarily in the capacity of Assistant?

A. Mr. Adams has not been formally appointed in such capacity. Mr. Jenkins engaged him to act. On this point I am authorized by the Minister of Agriculture to state that it is his intention to replace him by one of the Canadian agents that the Provinces had in Europe previous to the Conference, or by some competent person, having personal knowledge of Canada, from Canada.

Q. Is he (Mr. Adams) a Canadian, or has he any personal knowledge of this country?

A. He is not, I believe, a Canadian ; and I cannot say what is his personal knowledge of this country. I understand, however, that he has been in Canada.

Q. Are any of the Clerks in the Agent-General's office Canadians, or do they know anything personally of this country?

A. I believe that none of the Clerks are Canadians ; and I cannot say that any of them have personal knowledge of Canada.

Mr. Doyle's Report on Miss Macpherson and Miss Rye's Children.

Mr. Gordon, M.P., called the attention of the Committee to the work which was being done by Miss Macpherson. He said it was of great value to the country, and called for some recognition from the House. He intimated that, in his opinion, the Committee should recommend a grant of five thousand dollars to that lady to assist her in her work.

Mr. Trow requested Mr. Lowe to state whether the Department of Agriculture had any information respecting the work of Miss Macpherson ; and if so, that he would state what that information was, and also what was the opinion of the Department respecting that work.

Mr. Lowe said: the information which has been from time to time received by the Department respecting Miss Macpherson's work is favourable, and does not differ from the description given by Mr. Gordon. It is understood there have been some failures, but that they are few in number, and constitute the exception to the rule of general success. I have, however, to state that a report was a few days ago received from Mr. Andrew Doyle, an Imperial Local Government Inspector, who had been sent out to this country by the Local Government Board, to inspect the children brought to Canada by Miss Macpherson and Miss Rye, from the English workhouses. That report has been transmitted by the Secretary of State for the Colonies to His Excellency the Governor General, with a request that it should receive the serious attention of the members of the Canadian Government. I have that report with me, and I am authorized by the Minister of Agriculture to communicate it to this Committee, as well as to inform the Committee of its particular reference to the Canadian Government which I have stated. I may say generally to the Committee that the report is long, and fills a pamphlet of 41 closely printed pages. It is highly adverse to the work which has been done, both by

Miss Macpherson and Miss Rye ; and, in fact, makes reflections upon both these ladies of a severe character. Without attempting to give to the Committee a summary of the report, I may say that Mr. Doyle in substance charges these ladies with failing in the responsibility which they have undertaken with regard to the workhouse children, in that they have not maintained the care and supervision over them which they promised. He intimates, as a consequence, that some of the girls have gone wholly to destruction, and some of the boys to the gaols. He states that many of the children are placed in unsuitable situations, and required to do work for which they are wholly unfitted. This state of things, in many cases, he further alleges, leads to hardship and positive cruelty. "The Homes" he considers insufficient for their requirements, and that the supervision or inspection of the children after they are placed out, is of the loosest possible character. In fact, he gives it to be understood that the system amounts to nothing more than just scattering the children broadcast here and there, and losing sight of them, in conditions, in which in many cases, improper advantages may be and are taken of them. He does not give any information as to the number of children who are doing well, or the proportion of failures to the whole. But he makes the general statement " nine-tenths " of the children who have been brought out are still in service, and it remains to be seen how they " will turn out." No evidence whatever is adduced to show that so large a proportion as one-tenth of the children is out of service. Of the nine-tenths in service, Mr. Doyle says further: " The prospects " of a considerable number of them are no doubt promising. Of the prospects of a still greater number " no one can honestly say anything, one way or the other, so little is known of them." Of the " adopted " children he states that about 10 per cent. of the very young are very happily placed in respectable families. It may be remarked that Mr. Doyle does not classify in his observations the pauper children from workhouses and those who have been picked up by the ladies from the streets; and further, that he states he did not make an inspection of more than 400 cases, which only form about one-eighth part of the whole of the children brought out by these ladies. But he adds he did visit a sufficient number of cases to enable him to see the system. He more than insinuates that these ladies are not wholly actuated by motives of benevolence, and states that for the pauper children they receive 8*l.* 8*s.* stg. per head from the Poor Law authorities, while they obtain passenger warrants from the Dominion Government for 3*l.* 5*s.* stg. or 2*l.* 5*s.* stg., and get also from the Ontario Government the refund bonus of 1*l.* 4*s.* 8*d.* per head. Further that they have free railway fares from Quebec given to them ; and that the cost of their Homes is not more than about 200*l.* stg. per year each. He states the ladies informed him they desired a full inspection of their accounts, but up to the period of writing his report, they had not answered his request to be informed of the monies they had received from the Dominion and Provincial Governments. He therefore infers that on the pauper children at least, they receive five or six pounds sterling each, more than they pay out. I may on this point remark, however, that the pauper children only form a very inconsiderable portion of the whole of those who are brought out by Miss Macpherson, and a little more than half of those brought out by Miss Rye. Mr. Doyle does admit that under proper system, the emigration of these children to Canada might be advantageous to all concerned. He finds that Canada does possess a field capable of absorbing a very large number of agricultural labourers, and states that society in Canada is preferable to that in other parts of America. The conditions which he considers necessary, are receiving houses or "industrial establishments," under Government control, where the children would receive a few years' training in Canada before being placed out; and periodical inspections afterwards.

Q. What is your opinion of Mr. Doyle's conditions?

A. I think the "industrial establishments," which he proposes would be really an extension into this country of the English workhouse system, and that it would not be found to be satisfactory. I think it would be altogether unsuited to the ideas and condition of the people of this country. I think if the children are properly placed, the sooner they are so placed and absorbed into the population of Canada, that is, if they are such as should be at all brought to the country, the better ; and that the less they would have of any workhouse mark, or any "industrial establishment" mark, to distinguish them from the ordinary children of this country, the better. Of course, however, in cases of unsuitability there must be some places to which the children can return; and there must be some supervision.

Q. What would be the effect of Mr. Doyle's report as it stands?

A. I think it would be to stop entirely the immigration of children from the workhouses, and very materially to affect the aid which Miss Macpherson and Miss Rye receive from the public in the United Kingdom to promote the emigration of what are called "arab" children.

Q. How should the allegations in the report be met?

A. The report is based on an inspection by an Imperial Government Officer, and, I do not, therefore, think that it can be met by any mere general statements as regards the condition of the children who have been already placed out. I think the only way to do so would be by means of detailed report based on a full inspection. This, if the present system of Miss Macpherson and Miss Rye is thought sufficient, might be made quite special for the purpose of ascertaining the accuracy of Mr. Doyle's statements. But it may be remarked that if such inquiry were undertaken, it would, under the present practice of our immigration system, properly belong to the Provincial Governments.

Q. Could not the Dominion Government make such an inquiry by commission or otherwise ?

A. By the terms of the Union Act the jurisdiction with respect to immigration is joint between the Dominion and the Provincial Governments ; and the Dominion Government might therefore undertake any inquiry it saw fit. But under the arrangements between Dominion Government and the Provinces, as established at the conference in November last, the question being as to the care of immigrants after arrival, I think the duty of such an inquiry would naturally belong to the Provincial Governments. It might, however, be necessary for the Dominion Government to transmit the report obtained to the Imperial Government.

Mr. White (of Hastings), and *Mr. Pettes* (of Brome), expressed the opinion that the report of Mr. Doyle, as described by Mr. Lowe, was erroneous and unjust in its conclusions. They stated they had personal knowledge of the work done by those ladies in their respective neighbourhoods, and that it was highly advantageous to all concerned.

Mr. Pettes submitted the following extracts from a letter written by Miss Barber in charge of Miss Macpherson's Knowlton "Home":—

"8th March 1875.

"It is somewhat difficult to definitely answer your question as to the number *adopted* by contract, as every person taking children has them on trial for the first year, with the right of returning them if not satisfied; and we, at the same time, reserve the right of removing each child before final arrangements are made.

"Say fifty adopted; eleven never yet placed out; two have turned out hopelessly bad, and have been sent back to England; one cast off for insubordination; one removed by death; one hundred and eight placed out have never changed their situations; sixty have changed situations once. Of those who have changed places once or more, I may say it is not always from any fault of themselves, but sometimes from change in the circumstances of the masters.

"Sometimes they have been found too young, or we have not placed the right dispositions together, and it frequently happens that a child that may not do well in one situation, is greatly valued in another. Only a few of the older boys have broken away from the control of the Home and are working for themselves.

"It is true the children brought out are not perfection, but are living children with just the same faults and failings as others.

"Neither are they finished servants, but still require patient training. But upon the whole they have turned out generally well, a few only disappointing us. And I can truly say, after three years experience in this work, that the children are as good and are doing as well as the same number would do gathered from any country or class you could name.

"We try to watch over every child as thoroughly as possible, by visiting, writing to, sending love gifts, &c. The children are scattered over a very large tract of country, so that the visiting is one of the great difficulties of our work.

"Any person who will visit the Knowlton Home, and go over our books, will, I believe, be quite satisfied that our children are not neglected in that respect.

"Yours truly,

"E. Barber."

Committee Room, House of Commons, Ottawa,
16th March 1875.

Miss Annie Macpherson appeared before the Committee, and made the following statements regarding her work, in answer to questions by *Mr. Gordon*:—

The total number of children brought out under her agency since the year 1870, was two thousand.

Upon being solicited to take charge of the children, they are removed to the Home in Spitalfields in London.

The schoolmaster in the Home selected (after they had remained a month) such of the children as were healthy enough in constitution, and sufficiently educated. Those who passed the test were sent to the Homes in the country for training. If the children were ragged when they were taken in charge they were comfortably clothed and otherwise provided for; they were treated in all respects exactly as if they were her own brothers.

A doctor was in the institution every day to see to their health, even before they were judged ready to be formally received. The schoolmaster and others engaged in the work united in the consideration as to which of the children were suitable for emigration to Canada.

While they were in the Home they underwent a thorough system of education and discipline.

In their passage to this country the children were in charge of her (Miss Macpherson) or her co-workers, and of respectable adult emigrants, widows and others who aided them.

They had never tried to make any special bargain with the shippers; the children were brought out on the same terms as regular emigrants.

She (Miss Macpherson) and her assistants did not trust to the services of the ship-servants for attendance upon and care of the children, but turned in and helped at the work themselves.

Mr. Trow, M.P., here suggested that the better plan would be for Miss Macpherson to give a detailed account of her work in her own way; the number of emigrants brought out; the means at her disposal; whence these means were derived; the privileges, if any, she received from the Emigration Department; the schools she had established; how they were supported, and all other matters of that description.

Mr. Gordon, M.P., said that a number of charges had been made by Mr. Doyle against the work in which Miss Macpherson and her friends were engaged. That gentleman's report was being widely circulated; the matter had been taken up by the Toronto *Mail*, and he had also found the charges reproduced in a St. Catherin's newspaper. He believed that it was the desire of the Committee to obtain the fullest possible information on the subject, and allow the blame to fall upon those to whom it belonged.

Mr. Trow said Mr. Doyle was not on trial before the Committee. Their object was to ascertain the success of the enterprise.

The Chairman said he thought the Committee should decide upon the mode of conducting the inquiry. They should either allow Mr. Gordon to proceed, or some member of the Committee should write out the questions to be asked Miss Macpherson.

After further discussion it was decided to allow Mr. Gordon to proceed with the examination.

Miss Macpherson, in reply to further questions by *Mr. Gordon*, stated—She made no particular arrangements for bringing out the children. When her party was complete she went to the Agent-General in London to arrange for the regular emigrants refund bonus given by the Ontario Government. The sums she received amounted in three years to four thousand one hundred and seven dollars.

This bonus consisted of a payment of six dollars per head for all emigrants over twelve years of age.

No other advantage has been received from the Government of Canada except in reduced passages, such as given to other emigrants. Certain concessions were proposed to her last spring by the Canadian Government for bringing out emigrants by the Dominion line for three pounds five shillings sterling, but she had declined them, and had paid the regular fare.

The average cost of bringing the children out, up to last year, was 4*l.* 10*s.* per adult; and half that amount for children under eight years of age. That was the fare between Liverpool and Quebec. The cost of transferring emigrants from London to Liverpool was 12*s.* 6*d.*, making the total fare from London to Quebec 5*l.* 2*s.* 6*d.* sterling.

They had three homes in Canada for children; one at Belleville, another at Galt, and a third at Knowlton. The ladies who had charge of these homes made inquiries in advance about suitable places for the children.

A record was kept showing where the children were sent, how they were treated, and how they behaved themselves.

They were, as far as possible, given out to persons whose requirements would be suited by the children, and who would be expected to use them well. They always required a recommendation from a minister or other responsible person as to the respectability of those applying for the children.

When persons of improper habits made application they were invariably refused. They exercised a supervision over the children after they were sent out.

Since the children first came out in 1870, one of their schoolmasters had been travelling continually in Canada, making inquiries into the welfare of those who had been sent out. Even in cases where no special complaints were made, they kept a supervision over them.

A horse was kept at Belleville, for the use of their travelling agent, and no limit was imposed by her upon the expense of his visits. They had also a supervision of another kind. A number of ladies were continually making friendly visits in different districts of the country.

They had at the present time one of these visitors in Belleville, and two others in the Eastern Townships, and with these they were in constant communication.

In 1874 they had no less than twelve hundred reports; in two hundred other cases there were two reports; thus making in all sixteen hundred reports.

They kept a record in a book at the Spitalfields Home, where friends of those sent out could ascertain how the emigrants were getting on in Canada. These inquiries were often the means of their getting other emigrants. The homes both in England and Canada were open night and day; and the right of removing children who had not been well placed was exercised in all cases in which it was found they were not well treated.

In all cases when children were returned, they endeavoured to ascertain who was in fault, and even when it was found the child was to blame, he was kept under the care of the Home. They had no rule as to how long the children were to be so kept.

In one case, a child which had developed into an imbecile was returned to England.

(A register of the children who had come to Canada under her care was exhibited to the Committee.)

Some of the records had been lost when the Home was burnt. Of the two thousand children she had brought out, three hundred and fifty had come from the workhouse, on the condition that they should lose the badge of the workhouse when they came under her mission. They were taken on the same terms as Miss Rye's children, namely, 8*l.* 8*s.* sterling each was received from the workhouse to assist in their maintenance, &c.

Referring to the charge made by Mr. Doyle that the persons engaged in the work had made money by it, she said their books were perfectly open to inspection. Their habit was to publish an occasional paper on emigration, and every six months they issued in England a balance sheet. Their accounts were kept by a public accountant, and two gentlemen audited the accounts every year.

(These half-yearly accounts in printed form were here exhibited to the Committee.)

The Canadian accounts were audited by gentlemen in Canada. Of the 8*l.* 8*s.* sterling which was received with the workhouse children, 4*l.* 10*s.* sterling was paid for passage money; the balance went to assist in paying general expenses of the work. The total annual expenditure on the Homes was about $12,000.

The workhouse children got an outfit from the workhouse. Besides submitting her balance-sheet, she desired that the fullest investigation should be made into the details of her expenditure.

The following statements were read from the accounts produced:—

Belleville Home, amount expended for the year 1874 -	$3,311	87
Balance in hand - - - - -	3	00
Galt Home, amount expended for the year 1874 -	$4,002	00
Balance - - - - - - -	78	00
Knowlton Home, for the year 1874 - - -	$4,998	33
No cash on hand.		

Miss Macpherson (continuing)—The three Homes had been originally purchased for about one thousand pounds each; and in all about fifty thousand dollars had been expended in the whole work in five years.

The sum expended annually on each of the homes was not two hundred pounds sterling, as stated by Mr. Doyle, but about eight hundred pounds sterling. She said that they might add other items which would make the sum larger, as for example, the expense of their travelling agent which was charged in the English and not in the Canadian account.

Miss Bilborough—On being asked as to the per-centage of children adopted of those brought out, said that the number of adopted cases was not ascertained. The number of adopted cases in Canada depended on the measures which were taken to have the children adopted. If adoption were proposed by friends, large numbers of children would be taken in this way; but if it were proposed by Government Inspectors she did not think the people would care to take many. All the children they had brought out for the purpose had been adopted, but she could not tell from the classification if ten per cent. had been adopted or not.

Miss Barber stated, that in Knowlton they had about two hundred and eighty children, of whom fifty had been adopted. There were, besides, a number who probably would be adopted.

Miss Macpherson (resuming)—After distributing the children in the summer and all through the winter, these Homes were open for such children as came back. They kept them until such time as they thought fit to place them out again. Referring to Mr. Doyle's statements, she said that full inquiries were made as to the character of those wishing to adopt children before they were sent out. In most cases the boys were treated just as farmers' own sons were. They were frequently put out at a very early age.

The children were so fond of coming back to the Homes that they were obliged to be a little strict. She always told the boys that if they succeeded well they might contribute money according to their ability to aid in getting others out to this country.

They had received over one thousand dollars in this way. Many of the boys they had brought out had succeeded well; numbers of them were regular attendants of churches, Sabbath schools and Young Men's Christian Associations.

There were black sheep in every fold, and of course there were some in theirs; but all they desired was that they should be judged by their work as a whole and not by individual cases. A gentleman had once written to Miss Bilborough, saying that he would take no more interest in the work as he heard there were no less than 45 of their children in the Reformatory in Penetanguishene. On making inquiries it was found that the number was four or five. He had united the two figures, and so had made the number 45. The gentleman had resumed his interest in the work, and his next letter was accompanied with his usual subscription.

Mr. Smith, M.P., said he had heard it stated that amongst those who succeeded well, were some who had attained to professions.

Hon. Mr. Flint, Senator, said he might be allowed to refer to one case which had come under his notice. One of the boys whom he had observed as an active intelligent looking lad had been with his son since the fall of 1870. He had no means, nothing but the clothes he had on; and had but little education when he came to him. He had since educated himself, not at schools, but had pursued his studies in the office and his boarding house. He had successfully passed his examination at Toronto, and in two years, if his health were spared, he would be an Attorney-at-Law.

His (*Mr. Flint's*) son feeling an interest in him, procured him clothes and gave him sufficient money to pay his expenses in order that he might get on in his profession.

He (*Mr. Flint*) was satisfied that if his life was spared him, he would yet make his mark in the country.

He (*Mr. Flint*) was from the first connected with the Belleville Home as one of its workers. When Miss Macpherson first came out she stopped at Belleville and circumstances led to his meeting her. The friend with whom she intended stopping being unwell, she came to his house along with Miss Bilborough.

It was suggested that we should get the place (Marchmont) for the next lot of children she brought out. He brought the matter before the County Council, and they voted a sum of money to pay the rent of the place for one year.

The first lot of boys that came out he had nothing to do with, excepting one who was in his care; when the next lot of boys came out he was there. They were fine healthy-looking boys.

There were some fears expressed in the neighbourhood that there would be a great deal of pilfering, noise and disturbance among them, but it was afterwards expressed to him, that they had never seen a more orderly or well-behaved lot of boys. They had never caused the least trouble, and though the trees were loaded with apples, none had been stolen by them. He had taken four of the second batch. He put them out at various trades; one at a foundry, another with a grist miller, a third with a scythe-maker, and a fourth with a hammer-maker. They were in a fair way of doing well, when unfortunately other influences prevailed. They were told they could get a deal more money by working for farmers, so they went away. They remained a little over a year and a half.

None had returned to their trades except one.

The difficulty they experienced with these boys was that when they were sent out to farmers, other farmers induced them to leave by promise of higher wages. He knew that Miss Macpherson had been troubled considerably by these cases.

He took one little fellow of the first lot of boys and put him with his gardener. He seemed to enjoy it for some time, but he concluded at last that he would like to work at something else by which he could earn more money. He (*Mr. Flint*) did not approve of giving the boys much money, but he had always supplied them with clothes and other necessaries as they required them.

The boy left him (*Mr. Flint*), and went with a farmer about 25 or 30 miles distant. He was there yet and doing well, so that his discontent was not owing to a bad disposition, but simply that he did not like his place. So far as his part of the country was concerned the work had been a success. Children were never given out except to those who produced sufficient recommendations as to character, &c., and the ones who found fault were those who applied for children too late to be supplied, and were refused, or because they did not produce these recommendations.

Some people who kept public-houses made application, and were of course refused, and they were very apt to grumble on that account. He (*Mr. Flint*) knew from his own personal knowledge, that Mr. Thom spent a great part of the time in visiting the children.

He (*Mr. Flint*) had audited the accounts last year, and had been very careful, as they always have to be sent to England.

He had no hesitation in saying that the work was one not only calculated to benefit the children, but to be of service to the country. He had carefully examined Mr. Doyle's report, and was astonished that any gentleman could so persistently present the dark side of the subject to the people. It seemed to him that Mr. Doyle had an object in so doing, as he wished to establish a system of red-tapeism by which all the visiting would be conducted by Government inspectors. He (*Mr. Flint*) was very certain that that system of inspection would not be nearly so successful as the one employed by Miss Macpherson and her friends. On one occasion Mr. Doyle had been at his (*Mr. Flint's*) house, he (*Mr. Flint*) had

been desirous of having a talk with him so that they might exchange information on emigration subjects, but he (*Mr. Flint*) found that it was impossible for him to tell anything to Mr. Doyle which that gentleman did not already profess to know. He (*Mr. Flint*) could not get in a word edgeways. He had come to the conclusion that Mr. Doyle had a theory of his own which had to be adopted to the exclusion of all others.

And he had no faith in the report he had published. He believed he could answer that report himself. He thought it was very wrong for that gentleman to get out such a report and especially to mix up the work accomplished by Miss Rye with that of Miss Macpherson, as they were entirely distinct, and conducted on different principles.

Mr. White, M.P., said that the Rev. David Wishart, near Madoc, had some immigrant boys who had not turned out very well. He wished to know whether they had been brought out by Miss Macpherson?

Miss Macpherson said they had.

Mr. White said that he believed the reason these boys had not got on so well as might be desired was, that Madoc was a small place, and during the time the boys were there, it was full of miners. He had learned since, that the boys were doing better.

Hon. Mr. Flint read from Mr. Doyle's report in reference to some remarks alleged to be made by the Warden of Hastings in reference to the children in that locality, and said that when he brought up in the County Council, the question of granting seventy pounds for the rent of the Marchmont Home, the gentleman referred to, *Mr. Wood*, had not opposed the motion. He had then and afterwards spoken very highly in favour of Miss Macpherson's work. He (*Mr. Flint*) had received in Belleville, after the Home was burnt down, about one thousand dollars, without any pressing, to be applied towards the getting a new Home.

Other contributions had come in from various parts of the country, and the County Council, of which this same gentleman was warden, had granted five hundred dollars to the Home. How he had changed his mind since he could not tell, as he had never heard him speak ill of the work. The Home had been bought and paid for chiefly by the voluntary contributions of the people of Ontario and Quebec.

He had received a number of subscriptions from the latter Province, besides sums from ladies and gentlemen on the other side of the line.

He was of opinion that the character of those sent out among the farmers, compared favourably with that of farmers' sons. He had had quite a number of them himself, and he knew he had less difficulty with them than with the same number of country boys.

Miss Macpherson, referring to the class of children brought out, said that her schoolmaster was pledged not to bring in any from the depraved or criminal classes.

It had been averred that they brought out diseased children, but the fact was they had to undergo examinations at the hands of medical men,—first in their institution at London, again on embarkation, and again on board the ship.

Mr. Flint said that the money stated in Doyle's report, as having been paid over to Miss Macpherson by these children, was paid in the way which she had explained.

It was done in the endeavour to get the children in the way of taking care of their money, in order to aid in bringing out their friends, relatives and other poor children to this country. He mentioned the case of one little girl, who could not have been more than twelve or thirteen years of age, who went out to service in a family, and who was, he believed, the first to pay over money in this way. She contributed five pounds to get out another child. He believed this plan would inculcate in the children themselves an interest in the work.

Miss Macpherson further said this was her second winter in Canada, and the object of her visit was to remedy any defect in the work which might exist, and specially to see to the re-training of those who required it.

For example, those whose tempers were sour or unruly, they were continually endeavouring to retain at each of the homes. They were also making the homes more comfortable by improving the dormitories, &c.

Mr. Trow.—From what sources are these children drawn? Were they from the streets of London, or from the rural districts?

Miss Macpherson said London was the centre of the world, and many came there from the rural districts. Referring to the maintenance of the work, she said they only received what was voluntarily contributed. Canadians had made contributions on this principle; the exact amount was stated on their balance sheet. About six hundred of the two thousand children brought out were girls. Those under twelve years of age had with scarcely any exception done well, most of them having been adopted in the families of farmers who treated them as their own children.

Some of the older ones had not done so well; and their efforts were being directed to bringing out younger children every year.

Many ministers, who had no families of their own, had adopted these children, and had made themselves voluntary agents for the assistance of the work.

Mr. Pettes, M.P., gave the following particulars respecting the Knowlton Home:—

There had been two hundred and eighty persons in the Institution, including four women adults; about one hundred and twenty-nine boys, and one hundred and forty-seven girls.

Of the total number, two hundred and thirty-five were English, twenty-one Irish, nineteen Scotch, and five Canadians.

Their ages range from eighteen months to twenty years. He believed, from his knowledge of the children, that those under the age of twelve years had usually done better than those of a more advanced age. He was personally aware of a number of children being placed out—not adopted at once—but temporarily placed out in order to see how they would get on.

He had known several instances where they did not get on well, owing to their dispositions and that of their masters' being very dissimilar.

Children who had been harshly treated at one place had been sent to other farmers, and being kindly treated had become attached to them, and had remained with them ever since. Only two or three had proved incorrigible.

One hundred and eight out of the two hundred and eighty had never changed their places; sixty had changed once or more. A very large amount of visiting had been done with good results.

He was satisfied the work was being conducted in the best possible manner in the interests of the children and of those requiring them.

Miss Macpherson resuming said: that the number of deaths which had occurred among the 2,000 children brought out during the past five years had only been ten.

They brought them out according to the means they had; there was no limit to the placing of them; the demand was generally in excess of the supply. Mr. Cockshut, of Brantford, and others, would often ask for two or three little girls to educate. They required more organization than they now had; for one thing, they intended putting on more visitors.

The year 1869 had been one of destitution in the East of London, and she and Miss Logan had that year sent out three hundred adults, at a cost of 2,400*l.* sterling. They had never interfered with the regular emigration agencies in the old country. The total cost of their mission in England was about $50,000, yearly, for training, passage, clothing, contingencies, &c. She stated that she had not received any money whatever for her own services; but had paid in all that she had received for the purpose of furthering the work.

She further said, in answer to a question put, that she did not intend to bring out any more pauper children from the workhouses.

Committee Rooms, 20th March 1875.

Colonization in Manitoba.

Mr. Lowe, [re-examined.]—*Q.* Has there been any reservation of land in Manitoba or the North-west for Canadians returning from the United States?

A. Yes, four townships have been set aside in Manitoba by Order in Council, of yesterday's date, for "The Colonization Society of Manitoba," the land to be given free to actual settlers who fulfil the conditions required by the "Lands Act." When thirty-five families have settled in a township, then there will be a grant made of 640 acres for a town site to the Society, the proceeds of sales therefrom to be controlled entirely by the Society for its benefit. The town site may be acquired before the settlement by thirty-five families on the payment by the Society of $640 in cash, but such payment to be returned to the Society after the required number of families shall have settled in the township. Two of the townships are required to be settled by the 15th July 1876, and two others before the corresponding date of the following year.

Q. Is any aid granted to assist in paying the railway fares from the United States to Manitoba?

A. There has not yet been any decision to grant such aid, but negotiations have been set on foot to obtain cheap railway fares, which will, in fact, constitute a sort of aid.

Miss Macpherson's and Miss Rye's Children.

Mr. Young, M.P., examined.—When Miss Macpherson first came to Canada she paid a visit to Galt, among other places, and at a large meeting held in that town, she had given details respecting her work, and had met with a most cordial reception by the people in the neighbourhood. So far as he (Mr. Young) had been able to examine the work, he believed that it was a Christian work, and a work which had accomplished an immense amount of good to these young people. He believed that taking it all in all, there was no portion of our emigration system that had really been better for Canada than this one, and it was besides, so far as the country was concerned, very cheaply conducted. He believed that the most of the boys whom these ladies were bringing out would not only do well for themselves, but would make first-class settlers as they grew up. With regard to the accounts, he believed they were semi-annually audited in London, at all events he had several times had handed to him the statements of the London auditors of the expenditures for each six months. He had been surprised to notice the very large amount voluntarily contributed by people in Great Britain, who felt interested in the encouragement of the work. This was one of the best evidences that they could desire, that those who knew Miss Macpherson best, and the work in which she was engaged, had the fullest confidence in her integrity and good management. He had glanced briefly over the report of Mr. Doyle, the Government Inspector. It was very ably written, but it appeared to him (Mr. Young) that he assumed an air of fairness in the first portion of the pamphlet which was hardly sustained in the latter part. In fact he considered the latter portion very unfair, and it was all the more so, because people reading the report would be apt to be deceived by the appearance of fairness which Mr. Doyle had given to the introductory part of his work. It was perhaps unintentional, but that gentleman had certainly done a great injustice to the ladies associated in the enterprise. There was, for example, the statement that the expenditure on each of the Homes was 200*l.* annually. He (Mr. Young) knew himself that this statement was utterly and absurdly incorrect, and he could not imagine how, if he had made proper inquiry into the matter, he could have fallen into an error so gross. It was well known that if two or three loads of boys of fifty or sixty each had to be kept for several months at each of the Homes, it could not be done without a considerable amount of expense. He had no doubt that the statement of the expense made by Miss Macpherson herself was entirely correct. Mr. Doyle had evidently looked at the work entirely in the light of an Inspector of the Poor Law Board of Great Britain, and had not taken into account the different state of society, and different circumstances which existed in this country. He seemed to think that the boys must go entirely astray if they were not constantly watched by a Government Inspector. He (Mr. Young) knew that Miss Macpherson and the other ladies kept a close supervision over all the children, and always gave them to understand that they could return to the Home if they were not well used by those adopting them. He knew that they were very particular as to the people who got the children, and made a very strict examination into their character. He (Mr. Young) had often been applied to by the ladies with respect to the people who wished to get the children, and they were particular in asking if the applicants were Christian people, and would be likely to use the children well. The children generally manifested the

greatest affection for Miss Macpherson, and appeared to regard her as their protector and benefactor. He had never heard of any instances of harsh treatment so far as the Galt Home was concerned. It would be noticed that Mr. Doyle had given credit to Miss Reavell and the other ladies who managed the Home for their general management. These ladies visited many of the children every little while, and Mr. Thom was also frequently engaged in visiting them. He (Mr. Young) believed that that was really all the inspection that was needed, and he had no doubt that Government inspection would not work nearly so well as the system now followed. Neither the people nor the children would like it. He noticed that reference was made to the fact that the boys paid back a portion of the passage money, and that the sum of $1,000 had been refunded in this way. He believed that fact was a very striking proof of the excellent character of the work, as the money was all paid voluntarily. He understood that when the boys paid their portion of this money they were given a certificate by Miss Macpherson, and he knew that they set a very high value on this certificate, and were in the habit of producing it as a proof of what they had been able to do in this country. The very fact that they were able to pay back this money proved not only that they were doing well in their new homes, but it was evidence of the good moral influence which had been brought to bear upon them. He thought the Committee should, not only in justice to Miss Macpherson, but in the interests of the Dominion, bring in such a report as would defend the work from the unjust imputations cast upon it by Mr. Doyle's report.

In reply to *Mr. White*,—

Mr. Young stated that it was not uncommon for those visiting the children in their adopted homes to remain over night in order that they might have better opportunities of judging whether or not the children were properly treated. He might remark that a large number of ladies in Brantford, Galt, and other towns and villages, co-operate with Miss Macpherson in the maintenance of the Homes by making garments, &c. In Galt there was a regular society for making up clothes for the children. About once a year they held a re-union at the Galt Home, at which all the children who could be brought, were present. He did not think that any one could see the manner in which the work was being conducted without being pleased with its success. It was necessary to have assistance in taking charge of the children in coming across the Atlantic, and he knew that several persons who were quite wealthy but took a deep interest in the work in Great Britain, had come across with the children. Several of these ladies had come to the Galt Home, had visited among the children, but even these persons had paid their board during the month or six weeks they remained at the Home.

Hon. Mr. Flint made the following statement:—

Miss Bilborough, who had been connected with the Belleville Home ever since she had come to the country, with the exception of a short visit she made to her friends, was supplied with funds by her father and brothers, and did not charge any of her expenses to the Home. She had also at her own expense furnished the Home with a first-class horse, buggy, and sleigh and harness, which was constantly in use by the ladies, and by Mr. Thom in visiting the children. Besides losing all her clothes, &c. by the burning of the Home, she had lost the sum of two hundred dollars which she had drawn from the bank. It was suggested to the owners of the bank that she should not lose the money, and they acted on the suggestion. Her parents were wealthy, and they would like her to remain at home, but she had determined to devote herself entirely to the work. She did not receive a cent other than her own money. The only one who was paid anything was Mr. Thom,—the teacher and visitor. They were obliged of course to pay for help in the Home, but so far as Miss Bilborough, and I believe the other ladies, were concerned, they paid ther own way.

The Chairman submitted the following letter from *Mr. Gordon, M.P.*:—

To the Chairman of the Committee on Immigration:

Dear Sir,—Respecting Miss Macpherson's scheme of immigration which engaged your attention at the meeting of your committee on Tuesday, the 16th inst., I beg respectfully to submit that the following propositions were satisfactorily established in rebuttal of the charges and allegations put forth by Mr. Doyle in his report to the British Government upon the matter in question, at least so far as Miss Macpherson's method of operations is concerned.

1st. That since 1870 Miss Macpherson has brought out 2,000 children from Great Britain to Canada, of which number 300 were girls and 1,700 boys; 350 were taken from various workhouses, and 1,650 from distressed and orphaned families, or waifs gathered from the streets of London and other large cities.

2nd. That the children brought out to Canada under Miss Macpherson's auspices undergo a careful preliminary educational disciplinary training before being selected for immigration, but no rule as to length of time.

3rd. That due medical supervision is exercised previous to immigration, to prevent crippled or diseased children from participating in the scheme.

4th. That proper guardianship is exercised over the children from the time of embarkation until their distribution to either of the three "Homes" or "Refuges" established and maintained for their use in Canada.

5th. That proper care is subsequently exercised to have the children adopted into respectable families, or apprenticed to persons who furnish satisfactory proof of good moral character, and their willingness and ability to carry out the pecuniary obligations into which they enter in behalf of the child adopted by or apprenticed to them. That a part of these obligations provides for the proper education and moral training of the child.

6th. That a subsequent kindly supervision is exercised over the respective children after their adoption or apprenticeship by correspondence, supervision by ladies visits, and appointed visiting agent.

7th. That when it is ascertained that through incompatibility of temper, insubordination, or wrong-doing, a continuation of the relationship becomes undesirable or impracticable, the child is again taken back to the "Home" to undergo a kindly dealing, having special regard to the faults which may have previously been developed, and the cause of dissatisfaction with their previous employers.

8th. That the children already brought out have proved unusually healthy. That their moral

character will bear a favourable comparison with an equal number of the children of Canadian farmers. That the children manifest proper gratitude for kind treatment. That many of them keep up a correspondence with Miss Macpherson, and according to their ability have contributed sums (never exceeding $25) for the purpose of helping other poor children to emigrate and become partakers of like comforts and blessings with themselves. That the aggregate sum thus contributed during four years, exceeds $1,000 or 200*l.* sterling.

9th. That the average expense of maintaining the respective "Homes" at Knowlton, Belleville, and Galt, is nearly $4,000 or 800*l.* each. That careful and properly kept accounts are the rule in each "Home"—the annual receipts and expenditures being carefully audited by a leading resident in the vicinity of the respective Homes, and that abstracts of such accounts are forwarded to the public accountant and auditors in England. That in said accounts all moneys received from whatever source, are carefully accounted for, and that no portion whatever appears to have been appropriated by Miss Macpherson as profit on the respective transactions or as personal remuneration, but that all monies received have been conscientiously expended in behalf of the children and the necessary expenses of the several "Homes."

10th. That every reasonable means of access is afforded by Miss Macpherson for inspecting the "Homes," the method of training the children, the books in which the accounts of the several Institutions are kept, and any other reasonable information which can be desired or afforded.

11th. That Miss Macpherson's scheme has already been sufficiently tested to afford ample proof that the principles upon which it is founded and conducted are sound, and will, if followed out, become a valuable means of bringing out a good class of immigrants, who, from the tender age at which they are brought out, will become permanent residents of the Dominion in larger proportion than the adult class.

12th. That the sum received by Miss Macpherson from Government sources in Canada, in aiding her to bring out 2,000 children since 1870, is only $4,107, or a trifle over $2 per child. That a sum of equal amount should be given to her by Government for the children already brought out by her, to aid her in the maintenance of the Homes and a continuation and prosecution of the good work. And that your Committee should recommend that for each child subsequently brought out to Canada, a fixed sum of, say, $4 should be given by the Dominion Government.

Trusting that the above deductions from the evidence given before your Committee, will meet with your cordial approval, and be embodied into and given effect by your report.

I remain yours respectfully,

House of Commons, March 19th 1875. ADAM GORDON.

Committee Room, Ottawa, March 22nd 1875.

Honourable Mr. Vail stated that, having been a Member of the Nova Scotian Government when Miss Rye visited that Province and brought out a number of children, he had great pleasure in saying that, so far as he knew, the children brought out by that lady had turned out well, so much so that there was a great desire on the part of the Nova Scotians to get an increased number from year to year. Mrs. Burt had followed up Miss Rye's work, and Col. Lawrie, who was acting as a sort of agent for Mrs. Burt, was making every effort to get out an increased number during the coming year. He (Mr. Vail) was quite sure that there were, to say the least, some very extraordinary statements in Mr. Doyle's report. He (Doyle) had not taken the time necessary to make a full inquiry or to make himself thoroughly acquainted with the work before making a report, which was calculated to injure, to a great extent, the cause of emigration from the other side of the Atlantic to these colonies.

Miss Rye appeared before the Committee and made the following statement:—

Since she began her work in Canada (which was in 1867) she had brought out between that date and 1869, about 1,000 young women. The Dominion Government gave no aid to this work. A great many people had thought that she was dissatisfied with the result of that immigration, and that therefore she had turned her attention to the bringing out of children. She did not claim that all these young women had turned out well, but she did claim that there had been but a very small per-centage that had turned out ill, and that there had been a very great deal of talk about the few who had not done so well as might have been desired. About fourteen years ago, Lord Shaftesbury had had a conversation with her about getting homes in Canada for young children. She had borne the matter in mind for some time, and in 1869 a gentleman from New York—an assistant of Mr. Brace's—had visited London and explained what was done in New York and neighbourhood with poor children—sending them from the over-crowded Eastern cities to the far West, and finding for them good homes for life. She then began to think Lord Shaftesbury's idea could be realized, and by her own exertions, and with the aid of the Press, she had been able to raise enough money to buy a Home in Canada, in which to place the children when they were first brought out. This Home was bought in the beginning of 1868 at Niagara, and fitted up for a suitable residence. She had then gone back to England with her mind full of the idea of getting children off the streets, but on giving the matter further consideration she was impressed with the opinion that this plan would be scarcely fair to the Colonies. She thought children so emigrated should have a certain amount of training, and she had not seen exactly where she was to get the money or the strength to carry out the purpose. In this difficulty she had gone to Mr. Rathbone, Member of Parliament for Liverpool, who at once caught at an idea on the subject. He said that the Liverpool Workhouse was in a different position from others in England, as it had the power of voting a certain amount of money for the welfare of its inmates, independently of the Central Board in London, of which (she might add) Mr. Doyle was one of its most confidential officers. Mr. Rathbone had undertaken to find one half the cost of the experiment they proposed trying, provided the Workhouse authorities would do the same.

The Liverpool Board had consented to allow the children to be brought out. Fifty children were brought to her, and in October 1869, she had taken them over to Canada. For some little time they had remained on her hands, as people were a little afraid to take them, but she had ultimately suc-

ceeded in placing them in good homes. She would give the Committee some particulars as to how these fifty little girls had succeeded.—

Twenty of them were at the present time (March 1875) doing exceedingly well, in the same houses she had placed them in 1869 ; two were dead ; one was married, and into her master's family ; one was at present on a visit to England; only five had been removed once ; nineteen were doing fairly well ; and only two had turned out lazy, idle, and worthless girls. She had come to-day to protest against Mr. Doyle's unjust, ungenerous, and most inaccurate report. It had been said that in the course of four, five, or six years, she (Miss Rye) and the country would be disgraced by the conduct of these children. She had specially desired Mr. Doyle to inquire into the condition and behaviour of these children brought out in 1869, when he was in Canada,—but he had declined, because certain formalities of the Whitehall Board had not been complied with. The result of the experiment with these fifty children had so far satisfied the Liverpool Board that they had endorsed her action. Other workhouses, in all about forty-six, had been opened to her, though, of course, there had to be a great deal of coaxing and arguing to be done, on account of the indifference and ignorance which prevailed in England in reference to these matters. The number of children she had brought out up to the present time amounted to 1,377, of whom 202 were boys. There were sixty-eight adult women and 1,102 little girls, varying in age from six months to fourteen years of age. About 200 of the 1,102 were non-union children, that is, they were from Peckham, Bath, Wolverhampton, and other orphanages. She was quite sure that if they made a strict inquiry into the condition of the children who had been brought, they would find that not more than three per cent. had proved failures. She (Miss Rye) did not take any credit for that, beyond the fact that she had conceived the idea ; the work had been done by good and kind men and women all over Canada, and they had done the work well. She claimed that Mr. Doyle was unjust because, though she had a number of centres for her work, and friends kindly co-operating and working well, yet he had only visited Mr. and Mrs. Robson at Newcastle, and Mr. and Mrs. Ball at Niagara, and had never gone at all to others. He had never visited Halifax, St. John, Mount Forest, Grimsby or Bradford, and he arrived at Chatham about three o'clock on a Saturday, and left the Monday following. Referring to a statement in Mr. Doyle's report, that she (Miss Rye) had brought fifty children to London last June ; that she and they had been entertained at the expense of the public, and that whoever came might take the children if they chose, Miss Rye said the facts were, that she took twelve children to London instead of fifty ; she was in London one week in advance of the children, during which time she was the guest of Captain and Mrs. Whitehead. She had had twenty-eight applications for these twelve children. Of the twenty-eight persons who had made application she had, by personal inquiry, aided by other friends in London, selected the twelve who were the most likely to take care of the children ; that the children came up to London at the expense of the Home and under care of a responsible person, and that they never went into or near the town hall. Referring to Mr. Doyle's statement to the effect that "a little girl who could not be hired "to tell a lie," had been punished by being put on bread and cold water for eleven days, she (Miss Rye) said that she had put this girl on bread and water for two or three days, as she sometimes had to do with very unruly and intractable children. Any one who knew anything of the training of children of this class, would admit that punishment of some kind was necessary in certain cases. She had had in all 290 children sent back, for whom she had had to find over 700 places, and her correspondence at Niagara would show that the reason assigned in a great many cases for returning them was that they did not like to punish other people's children. They said that they had neighbours interfering, &c., but they would not punish them. This had been the case with the little girl referred to by Mr. Doyle. She had been sent out to no less than nine different places in four years, and had been returned from each for insubordination. The only evidence upon which Mr. Doyle had based his assertions in this case was the mere word of the girl herself, which he had evidently deemed sufficient to entitle it to mention in a Governmental Report. The girl referred to was returned to Miss Rye one fortnight after Mr. Doyle saw her, for slapping her mistress's face. Mr. Doyle had never asked her (Miss Rye) one question regarding this girl's character. Another charge against her was, that she put out children in the United States, which was, according to Mr. Doyle, a deadly crime. She had put twenty workhouse girls in the United States in homes for which they were particularly fitted, and which particularly suited them. She had to consider not only the suitableness of the homes for the children, but the suitableness of the children for the homes, as it would be ridiculous to place children of a low type in the best families, and *vice versâ*. The children would not be happy, and the people would not be likely to keep them. They had to use discrimination in placing them so as to get them into the fittest homes. Mr. Doyle said that she kept no real register of her children so as to give an idea of what the work really was. She did not attempt to keep a very detailed account of the work, for the very simple reason that she had not sufficient time to do so. When she was in England her time was fully taken up, and here she was burdened with the care of 300 or 400 fresh children every year. She had also a great deal of correspondence. She had shown Mr. Doyle 6,000 or 7,000 letters which she and one young lady with her had attended to in the last six years. She thought it was exceedingly ungenerous in Mr. Doyle to expect her, in addition to attending to this large correspondence, to write up careful reports in red-tape fashion. He had also insinuated that while her Home was in good order on the occasion of his visit, that it had been specially prepared for his inspection ; the truth was, that when Mr. Doyle visited Niagara, Miss Rye and her assistant were both ill and away from the Home. Mr. Doyle had said also that she kept a paid matron and one paid servant, and Mr. Doyle had seen each servant separately and asked each servant the amount of wages paid to a paid matron and to three paid servants besides. There was another point she wished to refer to: when Mr. Doyle came to the Home he had very properly asked about the accounts. She had taken out her bills and had said that that was the weakest part of the work. That other and more important work had kept her from keeping the books as they should have been kept. She had given him (Mr. Doyle) her bank-book and her bills, and had asked him to examine them, offering to help as he had his clerk with him. This Mr. Doyle declined doing, on the ground that he had not time to make any investigation. He had asked for an account of the moneys she had received from the different Governments, and she had replied that she had been at the work for ten years and had never written one letter to Ottawa. She

had received $600 at one time from the Ontario Government, and $900 on another occasion, $1,500 in the ten years. She had given him a blue book to prove that, for as he seemed to have a great fondness for official reports, she thought a blue book would satisfy him better than a statement of her own. She had only to say now that if they would make a fair inquiry she was prepared to show all her books, correspondence, &c., and she was besides prepared to do what Mr. Doyle and the whole body of Governmental officials in England with their force of men and women dare not do—that is, she would satisfy them that the thousand children she had placed during the last six years had on the whole done remarkably well. Mr. Doyle had said that her Home ought to be open for children who might come back from any cause. The sick were to be nursed, the unruly managed, the vicious restrained, a lying-in ward added, and cases of prosecution conducted from that same centre, and expected her to accomplish all this for 8*l.* 8*s.* sterling, which in fact they could not do in England for 24*l.* per annum. There were a great many things that might be added to the work, but she had not the money. There should be a home for returned children, to separate them from the better behaved children who should not be mixed with the others. The question for the people of Canada to consider was this: there were a large number of fine children in England, who would be valuable to this country, and whom the British Government would be willing to assist out here. She had not the means of carrying on the work as she would desire, and it was for them to say how it should be accomplished. One thing that was needful at the Home, was a proper place for the children in case of sickness. Mr. Doyle had thought they should have a large infirmary, and though they had had so far, very little sickness, some such place was required. Mr. Doyle had also found fault with their arrangements in coming across the Atlantic. The fact was, the children were brought out in the same way as if their fathers and mothers were with them. The accommodation was very good. She had an excellent matron whose assistance was supplemented by some young women who came out with them every time. She had brought out 68 of the latter class within the last five years. He had also said that they should bring out the children by fifty instead of by hundreds. She thought that it was just as easy, in one sense, to bring out one hundred as it was to bring fifty. What she specially desired the House to do was to make a full investigation—not of isolated cases, but of the whole work. If this investigation proved satisfactory, she asked for a recognition of the fact, which would be beneficial not only in this country but in England. She hoped, also, that the Committee would recommend Parliament to grant a sum of $5,000 or $10,000 for the erection of a wing to the Home for the accommodation of the sick, and one for returned children. Mr. Doyle had spoken of the necessity of inspecting every child after they were placed in their homes, and he had made her say, according to his report, that she had repeatedly asked for such inspection. That statement was entirely at variance with what she had stated on the other side of the Atlantic. She had said that if the work were made conditional on such inspection, she was willing to submit, for the sake of keeping the work on. He (Mr. Doyle) had evidently formed his views on this subject from having seen the miserable homes to which children were sent out by the English boarding house system ; but the children who were placed out in Canada were with the very best people in the country—people who would be insulted at the idea of their not being able to manage them. A suggestion had been thrown out that the inspection of these children should be conducted by the Government School Inspectors in the different localities, who might perhaps be induced to perform such duties by a small addition to their salaries. She had spoken to the Chief Superintendent of Education for Ontario—Dr. Ryerson—on the subject, who had said that he thought the system could be brought into operation, if the consent of the Head of the Department could be obtained. She was quite willing that this plan should be adopted if it would add to the success of the work. If the Government would vote this money for the enlargement of the Home, it would have a very great effect upon the work in England. She would be willing to place the house, grounds at Niagara, &c., in the hands of responsible trustees. Mr. Doyle had quoted the letters she had addressed to the Imperial Board at Whitehall, but he had omitted all mention of the third and most important letter, written in 1871, in which she had made the Poor Law Board the same offer that she now made, viz., that the work should be made a Government one—the Government taking the responsibility off her shoulders. She did not think she could have done much more to prove her personal disinterestedness in the matter. They had written her in reply, stating that as they were not an originating Board, they could not accept her offer. There was no reason why it should not be made a Government work, for so far as she was personally concerned, she did not care whether the property was in the hands of the Canadian or the Imperial Government, so long as it was in good custody ; she would give the names of some of the people in the different districts who took the oversight of her children: In Halifax, there was Miss Cogswell (who had just died), and the Rev. Mr. Hill. In St. John, Ex-Governor Wilmot, Rev. Canon Scovill, Mr. Boyd, Mr. Daniels, and Mr. Attorney General King. In St. Catharines, Dr. Holland, Rev. Mr. Burson, Dr. Hill, and Mr. Clarke, of the Customs. In Grimsby, Mr. Cyrus Nelles, and Dr. Reid. In Niagara, Rev. Dr. McMurray, Mr. Robert Ball, J.P., and the Ex-Mayor of the town, Mr. Paffard. In Chatham, Mr. Scane, Mr. McCrae, Police Magistrate, and Rev. D. Van Allan. In Mount Forest, Mr. Sidney Smith, J.P. In Newcastle, Mr. and Mrs. Robson ; and in London, Captain and Mrs. Whitehead.

[*By Mr. Jones (Halifax) :*]—

Q. Mrs. Birt was not connected with her (Miss Rye's) work ?

A. It was the same work, but under different management.

[*By Mr. Stephenson, M.P. :*]—

Q. How many children have you brought out to Canada first and last? How many deaths have occurred amongst them?

A. I have brought out over one thousand young women and children ; four deaths had occurred in the Home and four out of it, and three of these had been accidents.

Q. How many are resident out of the country ?

A. There are forty children out of the country, in the United States.

Q. What is the average period you have kept children in the Home at Niagara ?

A. The average period is from three weeks to a month. That does not apply to children who are returned.

Q. What is the longest period you have kept children at the Home in Niagara, and why?

A. I kept one child for about nine months. She had been half starved, and was not fit to go out to work; there were two other little girls whom I kept for about eighteen months. They were very young, and we had not suitable homes for them.

Q. Did you ever speak of the children brought out to Canada by yourself as the "refuse of the workhouses?"

A. Never.

Q. Have you ever received commissions from the Allan Steamship Company, or from any other shipping firm?

A. No.

Q. Have you at any time received offers from the United States Government or United States authorities to transfer your labour to that country?

A. I have not received offers from the Government; I did receive an offer from the New York *Herald.* I have also received offers from some persons in Mississippi, and from another body of men in the Western States.

Q. Have you ever put yourself in communication with the Government at Ottawa, before your present visit, and have you ever had moneys from any other Government in Canada than the Ontario Government—say New Brunswick or Nova Scotia, where you have placed children, I believe?

A. Yes; I got about 300*l.* from the Government of New Brunswick to bring out some young women in 1872 or 1873. I brought out sixty women, and returned the balance of the money, for which I have a receipt.

Q. Mr. Doyle states that "The Western Home" of Miss Rye, at Niagara, is the old gaol of the town, bought for Miss Rye by subscription, and so altered and improved as to be in many respects a suitable building. Please state whether the Western Home was so purchased, and if not, how it was purchased?

A. The house was not bought for me; it was bought by money which I earned by writing for the press in England.

Mr. Stephenson here said—I have received a letter from Mr. Van Allan, Ex-Mayor of Chatham, bearing upon Mr. Doyle's statements with reference to the work there.

The letter was read and put in.

R. Stephenson, Esq., M.P., Ottawa.

My Dear Sir, Chatham, 15th March 1875.

I was not a little pained, a few days since, upon learning that Mr. Doyle, who came from England ostensibly to look after the welfare of the orphan children brought from that country by Miss Rye and Miss McPherson, had, on his return home, issued a pamphlet in which he reflects, in most disparaging terms, upon the work of these ladies.

If Mr. Doyle's investigations were as searching all over as here, it is safe to say he really knew as much about these children before he left England as he did when he returned. He reached this place (in the neighbourhood of which there must be nearly 100 of these children) on Saturday afternoon, and left early on the following Monday, and, I am informed, saw some three or four of the children. I do not know whether you are a member of the Committee on Immigration and Colonization or not; if not, I trust you will do what you can to have the proposed investigation as thorough as possible, as you undoubtedly will, if on the Committee. The more thorough the investigation into Miss Rye's work, the more pronounced, I am satisfied, will be the complete vindication of that most philanthropic and estimable lady. I say this, taking it for granted Miss Rye is as careful *all over* as here, as to where she places the children, and as solicitous of their welfare afterward, as I have witnessed, as to the children she has placed in this neighbourhood.

Therefore, I firmly believe, if the whole truth is laid before the Committee of Miss Rye's work, Mr. Doyle's position, after the Committee report, will be an unenviable one.

I remain yours very truly,

(Signed) D. R. Van Allan, Ex-Mayor.

Mr. Stephenson, M.P., stated that he was personally acquainted with the work of Miss Rye in the neighbourhood of Chatham, Ontario, and could not but give that lady credit for doing very much good, for which she was richly entitled to the thanks of the children committed to her charge. In the year 1870, Miss Rye brought four children to the town of Chatham—two in the summer and two in autumn. These children were placed with very much care, as, indeed, were all the children, some fifty or sixty subsequently brought to that town. Mr. E. W. Scane, a leading barrister, took one; Mr. C. H. Rose, dealer in lumber, took another; Mr. Aldis, a well-to-do farmer near, and large property-holder in Chatham, another; and Mr. Lawrence Skey, miller, the fourth. These were the children brought to Chatham in 1870. All the gentlemen above named are amongst the most respectable and comfortably situated in the locality. In 1872 two more girls were brought to Chatham by Miss Rye, Mr. Wm. Carruthers, station-master, taking one, and Mr. H. J. Eberts, at present Reeve of the town, and for several years Councillor of the same, taking another. Mr. Eberts, likewise, is Church Warden of Christ's Church (Church of England) Chatham. With these familes Miss Rye kept up a regular correspondence, so that when that lady brought some 50 to 60 children to Chatham, in the year 1874, she had been able to secure excellent places for the greater portion of them, he might say for nearly all of them, who were taken to their new homes immediately upon their arrival in town. And he was happy to add that they are all now, with a single exception, he believed, in the places then secured for them. This exception was that of a little boy whose case is being warmly taken up by Miss Rye, the Town Council, and a number of philanthropic people who have interested themselves in the little fellow's behalf. One matter that deserves especial mention, to show the extreme care and thoughtfulness exhibited by Miss Rye in placing the children committed to her care, is this:—In the case of sisters and brothers, she has invariably striven—and in the neighbourhood of Chatham success has crowned her efforts—to place sisters in close proximity to each other, with families related to each other, or with families in the same neighbourhood. In Chatham and neighbour-

hood no less than ten such instances could be enumerated. For instance, the two girls taken by Mr. Scane and Mr. Rose, are in the same town; as are the two sisters with Mr. Eberts and Mr. Carruthers. Mr. Skey lives in Chatham, and has one girl whose sister is with Mr. Baldis, who resides within a very short distance outside the limits of the corporation. Then two other sisters were put out with two well-to-do farmers in the Township of Harwich (a municipality adjoining Chatham), named Tyhurst. Two other sisters were placed in two families, relatives and near neighbours, named Blackburn: while Mr. Louis Blackburn, Chairman of the Charity Committee of the Town of Chatham, has another of the children brought out by Miss Rye. So far as Mr. Stephenson's knowledge extended, and he claimed an intimate knowledge with the people of both town and country, from having represented the former for several years in the Council—being Mayor for three years—and Member for the latter in the Dominion Parliament, without hesitation he affirmed that Miss Rye was doing a great and good work, and from the manner in which she performed her self-imposed duties, she was unquestionably entitled to the support, praise and generous consideration of all humane, moral and philanthropic people on both sides of the Atlantic. He had one of the girls in his own family. He was not aware of Mr. Doyle's visit to Chatham; had he been so, he would have been delighted to have afforded that gentleman an opportunity to visit the greater proportion of the children, about sixty in all, and he felt assured that the impression he would have borne away with him, would have been one altogether favourable to the zealous and self-sacrificing labours of Miss Rye in the interest of the poor children that she brings from England to Canada. One other point, and he would have done. Mr. Doyle, in his report, refers to the comments of "the press" upon Miss Rye's work. Having had an intimate connection with the press of Canada for about 25 years, and during the whole of the period of Miss Rye's work in this Dominion having had the opportunity—indeed his profession, that of editor and publisher, made it necessary—to peruse the press, he could bring to his recollection but a single attempt to disparage Miss Rye in the remotest degree; and this was printed in a journal published in a town near to the Western Home, and was inspired, if not actually written, by a matron he believed discharged from that institution. Otherwise, everything he had seen in the Canadian press was unqualifiedly in Miss Rye's favour. He hoped and trusted that the Government would do all in their power to uphold and strengthen Miss Rye in the good work she had already performed, and which she still persisted in doing.

Miss Rye made the following statements in reply to questions by Mr. Trow, M.P. (Perth):—

People applied to her for children, sometimes for the purpose of adopting them, and sometimes as servants. She did not allow them to be adopted after they were nine years of age. They were adopted on the usual forms of adoption of this country. The form of indenture of service had been altered from papers used in orphanage institutions in different parts of Canada. With regard to those girls who were sent out as servants, they were bound up to the age of 18; up to 15 they were clothed and taught; from 15 to 17 they get three dollars a month; from 17 to 18 four dollars a month. The form of indenture was somewhat different from that used in Canadian orphanages. Boys were put out in a different way, viz.:—on a rising scale commencing at thirty dollars, and rising ten dollars every year till it rose to seventy or eighty dollars, but she had had very little to do with boys. Mr. Doyle had stated that she used three forms of indenture for the girls, but she had only two.

Mr. Jones, M.P. (Halifax), made the following statement:—

In Nova Scotia there was an ever-increasing desire to get the children brought out by Mrs. Birt. The results of the work which Miss Rye commenced and Mrs. Birt was carrying on in Halifax, had on the whole been satisfactory.

Hon. Malcolm Cameron, M.P., said he had read Mr. Doyle's report carefully, and he had come to the conclusion that it was a very harmless document, except the report of a conversation with a late Warden of Hastings, representing that gentleman as saying that the effect of importing these children was demoralizing to the children of Canada. Now the Hon. Mr. Flint had a letter which he (Mr. Cameron) desired should be put in, showing that this gentleman was still friendly to the scheme of Miss Macpherson. He (Mr. Cameron) himself had good opportunities of studying the question, having visited the Marchmont Home twice, and spending a day in visiting boys at various homes around Belleville, at Marmora, and around Ottawa, where Miss H. Williamson and Mr. Thom visited all the children up the river as far as Arnprior, and he was satisfied that the scheme was a profitable one for Canada, and a noble and benevolent one for England.

Mr. Norris, M.P., said he was acquainted with the persons to whom Miss Rye referred, and they were all respectable people. Men would do much for the cause of humanity. He also knew a good many of the children himself, and so far as he knew there had only been one case of cruelty, and the people of St. Catherines had taken that case up, and the persons who abused the child were punished. He believed the children were well cared for, though there might be some cases where they were not as well used as they should be. This was to be expected when they were placing so many children out among strangers, but the per-centage of the latter was small compared to the others.

Mr. Plumb, M.P., said he resided at Niagara and was intimately acquainted with Miss Rye's work.

He had had a good deal of trouble about it at first, and he had thought that there being so many difficulties to overcome, its success was very uncertain.

But he had since been convinced that his first impressions were incorrect.

He was personally aware of the careful scrutiny which was made into the character and standing of the people to whom the children were given out. There were of course great differences of temperament and character among the children, and Miss Rye did not in every case succeed in finding good homes for them at first, and this was the cause of a great deal of trouble. With one or two exceptions, children who had been sent back had ultimately secured good places. He had attended Miss Rye's first gathering of the children at the Home, three years after the Home was opened, at which two or three hundred were present, and the improvement in their appearance and condition was very evident. He believed as far as Miss Rye's work was concerned there was no necessity for any further supervision or inspection than was at present exercised. The demand was greater than the supply.

Hundreds of applications had to be refused, and when a lot of children were brought out they were taken up very rapidly.

He knew that in many cases if there was the slightest doubt about the character of the people applying they were refused.

He was certain that those engaged in the work had not done so for pecuniary advantage but from far higher considerations.

Hon. Mr. Flint said that after Miss Macpherson's testimony had been given the other day, he had taken the liberty of writing to the gentleman in question, quoting at the same time that portion of Mr. Doyle's pamphlet relating to the matter. He submitted the following letter which was ordered to be placed in evidence :—

Hon. B. Flint, Madoc, March 19, 1875.

Sir,—Since writing you yesterday I notice through the press that Mr. Doyle wishes to leave the impression that Miss Macpherson and her friends do not give sufficient attention to the selection of homes for the children under her care, and also that there was pecuniary advantages to themselves.

As to the last charge I have no doubt that Miss Macpherson can explain it satisfactorily, and as to the first I can bear testimony to the very great interest manifested by all persons connected with the "Home" at Belleville, and particularly Miss Bilborough, in securing good homes for the children, and the great amount of labour gone through for that purpose.

To my mind the fault is not in the efforts of Miss Macpherson and her co-workers, but in the unfortunate mistake made in taking children from the streets, who had already imbibed vices of the most dangerous character, and without sufficient training scattering these children with their vices broadcast over the country.

The wrong inflicted has been very great, though I am satisfied quite unintentional on the part of Miss Macpherson, as it was on my own part. Change the principle to educating them before turning them out on the world, and I feel one great difficulty will be removed; and in no safer hands could they be intrusted, in my opinion, than in Miss Macpherson's.

Yours, &c.,
(Signed) A. F. Wood.

Mr. Flint said he wished to state distinctly that the boys sent to Mr. Wood were not what he (Mr. Wood) called "gutter children," or children from the streets, but were taken from some of the poor-houses in England. He (Mr. Flint) had found more satisfaction from those children who were called "Arabs," than from those from the workhouses.

Mr. White, M.P., said he believed he could prove that these boys were doing better. The reason they had not at first succeeded so well was, as he had stated, because they were in a village where there were so many miners. He was confident they would yet make good men.

Mr. Flint said that during the time these boys were in the village there had been an influx of the very worst class—strangers seeking for gold, and so on, and he believed this fact had much to do with the demoralizing of the boys.

Mr. White said he believed that three-fourths of the boys resident in the village were fully as immoral as these boys were.

Dr. Orton, M.P., said so far as he knew a great deal of satisfaction was felt by those who had got children from Miss Rye's Home in Mount Forest. A large number were placed out in the County of Wellington, and he believed the people were satisfied.

Hon. Mr. Vail said the fault found by many people in Nova Scotia was that there was too much discrimination exercised as to who should obtain children. The regulations were so stringent that people paused before accepting the responsibility of taking these children.

The Chairman submitted the following statements and letters by Miss Rye, which she requested should be placed in evidence :—

The Russell House, Ottawa,
23rd March 1875.

I, Maria L. Rye, of our Western Home, Niagara, Canada, do declare that I have never at any time taken fifty children to London, Canada West, for distribution, but that in the autumn of 1873 I did take up twelve children to the said City of London ; that I went up one week in advance of the children ; that I was the guest of Captain and Mrs. Whitehead ; that I received twenty-eight offers for these twelve children ; that with the assistance of capable and intelligent persons I selected the twelve best homes for the said twelve children ; that the said children came up to London under the care of my co-worker, Miss Allaway, and at the expense of the Home, and that in no way were we indebted to the town. Neither did any of the children enter into the Town Hall. Also, that the said children were all placed out in London under the indenture forms marked in Mr. Doyle's Report respectively G and H.

Maria L. Rye.

I certify the above to be correct.
[L. S.] Benjamin Cronyn,
Mayor, City of London.

I have much pleasure in testifying to the correctness in every particular of the foregoing declaration of Miss Rye.

J. Whitehead, J.P.

(*Letter from J. J. Robson, Esq., placed in evidence by Miss Rye.*)

" Newcastle, 22nd March 1875.

My Dear Miss Rye,—Mr. Doyle has sent me his report, and a careful perusal confirms the opinion I formed from conversations I had with that gentleman when he was at my house last summer,

that is that he came out from England prejudiced against the charitable work in which you were wearing out your life in endeavouring to make a success.

I think it unfortunate the report of your and Miss Macpherson's work has been so mixed up, as under the circumstances it would have been much more satisfactory if it had been kept entirely separate.

Objections are made that the work the children are put at, is of a character they have not been accustomed to, and recommends for girls, particularly, that they should spend a year or two in some suitable Canadian farmer's home before being placed out.

I am really at a loss to understand how this idea is to be carried out, unless the means are provided by the Home Government to pay for their board and clothing, as I am well aware no places could be found where people would take them and drill them into usefulness, and then have them taken away without any remuneration.

As for the remark that children can be kept as cheap as chickens, it is simply absurd, as any practical person will understand when they know that the usual rate of board and lodging in country places in Canada, is ten shillings sterling per week.

The report also states that the children are insufficiently paid. After a careful consideration of the subject, I have arrived at the conclusion that the terms you require, viz.: board and clothing until fifteen years of age; $3 per month from fifteen to seventeen; and $4 from seventeen to eighteen, is quite as much as the girls can earn. Mrs. Robson says: Taking into account the troubles and annoyances connected with teaching them everything required to be known in house-keeping, setting aside all sympathy for the poor little creatures, it is more.

I see Mr. Doyle is horrified to find that an instance has occurred of a girl having actually had to work out in the fields. Had he mentioned the circumstance to me, I could, during our two days drive through my section, have pointed out to him the houses of twenty independent farmers whose daughters, during the busy time of harvest, &c., have done the same, and are certainly not looked down upon in consequence; in fact, I think if a little more work were engrafted into the workhouse system (the property so called) of England, the girls when sent out into service, or to this or other countries, would give more general satisfaction, and probably a smaller per-centage would turn out badly.

Great objection is made to the union children being mixed up with Arabs (gutter children), or whatever name they are known by, Mr. Doyle evidently thinking there is fear of the former being injured thereby. Now, my experience so far (and I have taken note of the matter), is, that the latter, as a rule, give greater satisfaction than the former; are less liable to be sulky; have more self-reliance; are less idle, and are, I think, quite equal in every way except in education.

I have lately had one of Mr. Doyle's pet workhouse girls (M—— G——) returned from the second first-class home she has had in this vicinity. Cause—Impossibility of keeping her in the house in the evening, going out without leave, and staying out all night, and dishonesty.

After a *thorough* explanation of the ultimate results of such conduct both by Mrs. Robson and myself, I have again placed her, and as I am holding the threat of the Reformatory over her, think she may now do better.

I remain, dear Miss Rye,
Very sincerely yours,
JOHN J. ROBSON.

(*Letter from the Lord Bishop of Toronto, placed in evidence by Miss Rye.*)

Toronto, March 29th, 1875.

MY DEAR MISS RYE,—I am sincerely grieved for the trouble you are experiencing as indicated in your letter of the 25th, from Ottawa.

I have all along considered your work a boon to Canada; and although disappointments are inevitable, the general success of your enterprise has surprised and satisfied us all.

I have on more than one occasion been present at happy gatherings of your young people; but on no more gratifying one than on the 22nd September last, when, as I understand, nearly 300 were present with those whom we may call their foster parents.

I have met several of your girls at friends' houses in the country, and with very few exceptions, received a good account of them. From all I heard they were in great demand; and any check to your benevolent enterprise, through calumny or misapprehension, would be a wide-felt disappointment.

Believe me, dear Miss Rye,
Very sincerely yours,
(Signed) A. H. TORONTO.

(*Letter from J. A. Donaldson, Esq., placed in evidence by Miss Rye.*)

Toronto, 29th March 1875.

DEAR MADAM,—Seeing your scheme of immigration is at present undergoing investigation, I beg leave to offer a few remarks. I feel it due to yourself and Miss Macpherson, having had the opportunity of observing your operations since you first commenced bringing parties to Canada.

From my personal observations I can only state that I have often wondered at the great interest taken by both you ladies in what I call a great good work in Canada.

I have often heard expressed the admiration of those seeking the children, how well they were trained when called on by you to sing their hymns, and repeat verses that would compare favourably with any of our Sunday School children.

How very scrupulous you always were in your inquiries about parties applying for those children, that I have on more than one occasion felt inclined to remonstrate with you when you have even refused worthy people to have those children, when you did not feel fully satisfied the children would be well cared for; the same applies also to Miss Macpherson.

I have no hesitation in saying with but few exceptions, these children, both boys and girls, are invariably well treated by the parties that get them, and that in the care of the female portion, I have always considered you were filling a gap, and supplying a want much felt by the community at large, as they will take the place of domestic servants in a few years.

In truth it is to the interest of parties securing the services of these children to treat them well, and with but few exceptions, I have seldom heard complaints.

Had Mr. Doyle called on the lady of the Honourable Isaac Buchanan of Hamilton, or had he had the good fortune to have seen the late Mrs. McMaster before her death, and heard the testimony of those ladies who were so conversant with your operations, he would perhaps have taken a different view in many respects to what he has done.

Believe me, dear Madam,
Yours very faithfully,
(Signed) John A. Donaldson,
Dominion Immigration Agent.

Miss Maria S. Rye, Ottawa.

(Letter from the Bishop elect of Niagara, placed in evidence by Miss Rye.)

The Rectory, St. George's Church,
Toronto, 27th March 1875.

My Dear Miss Rye,—I have been much grieved and astonished to perceive from the public prints how the good works that you and Miss Macpherson have been doing, not only for the poor children of England, but also for the poor housewives of our country, has been "evil spoken of" by Mr. Doyle. I have had some opportunities of seeing your work in this Province, and all I have seen has convinced me that your work was not only a charitable, but also a judicious one. I have seen several of the children who seem to be happy and well-cared for in the homes where you have placed them, and the per-centage of those who leave their homes are so small, that it proves that your work is well and judiciously done. I think it is a great pity that such officials as Mr. Doyle should be sent out to inspect your charitable work; a gentleman who probably has never been accustomed to inspect any but the charities of an old and rich country like England. He should not expect to find here all the contrivances and appliances which he finds there. Such a man reminds me of an architect from England, whom I have met with in this country. Everything in his line was wrong here when he first came out; but after being here a year or two he learned that he had misjudged what he had seen, and that the works of our architects were better suited for the state of things that exists amongst us than he had imagined.

Trusting that you will be sustained in your great and most useful works.

I am, my dear Miss Rye,
Yours very faithfully,
(Signed) T. B. Fuller, D.D., D.C.L.,
Rector of St. George Church, Toronto, Archdeacon of Niagara,
and Bishop elect of the new Diocese of Niagara.

(Letter from the Rector of Grimsby, Ont., and Rural Dean, put in evidence by Miss Rye.)

The Rectory, Grimsby, Ont.,
30th March 1875.

My Dear Miss Rye,—I hear you are at Ottawa endeavoring to defend your arduous and charitable work against the very unfair report given of it by the English Commissioner. As I took the first girl from your "Home," at Niagara, on the day of its inauguration, and have, as you are aware, seen a good deal of the working of the institution, as well as the custody of many of the girls, you will, I know, allow me to say a few words on the subject, which you can make any use of you think fit. The idea expressed by Mr. Doyle—that the children are no better off than they would be in an English workhouse—is evidently founded on want of information. I was much disappointed at not meeting that gentleman, as expected, at the meeting of your young friends, at the "Home," on the 22nd Sept. last. The appearance of between 200 and 300 happy, healthy, well-dressed girls, bringing with them every token and evidence of home care and comfort must, in itself, have gone a long way to dispel the impression, and a personal inspection of their "Homes" would have entirely removed it. Not having been in England of late, I cannot speak of the condition of the workhouses; but supposing them to be well conducted, and everything that could be expected from such public refuges of the poor, it is quite impossible that any such institutions could provide advantages (and that for the whole period of youth) which the girls enjoy in the very great majority of the families with whom they are placed in Canada.

The farmers of this country are a prosperous and intelligent class; the girls placed with them are kindly treated, and enjoy all the comfort incident to the family circumstances. I mention the farmers because I believe a large number of girls are taken by them, but many distributed in the towns and villages are equally well provided for.

There are ten or twelve girls in this parish, all of whom I know are well treated, well provided for, and generally receiving moral and religious training, and I can bear the same testimony concerning many others in the Niagara district.

Of course they will not all be equally fortunate, nor are they equally deserving None of them are angels; all of them have human passions to be corrected, and often will give a good deal of trouble to those who undertook the task; yet, I must say, as far as my knowledge goes, as well as from the opinions of many competent to judge, this task is, on the whole, very faithfully and patiently performed. Indeed, the great change and improvement in their condition originates one of the greatest difficulties in their management. For when much is received, human nature too readily fancies there must be some notice of personal merit, and does not often show the gratitude or acknowledgment it ought, either to a kind Providence or kind friends. There may be some cases where better treatment might have

been desired, though I am not aware of them, and truly believe them to be very few. Such cases are sure to be published when they occur. Investigation will generally show that instead of being winked at, the hardship is usually exaggerated.

As regards one girl, I shall only say that her time expired last Christmas. The caged bird often sighs for liberty and yet returns to the cage or refuge. She is still with us, by her own wish. When she leaves we shall see she has a proper home. I believe her faults have been well corrected, her principles improved, and she affords as much hope of a virtuous life as most girls in her state of life.

Wishing you every success in your great work of charity and patience under all trials,

Believe me, very sincerely yours,

F. Bolton Read,
Rector and Rural Dean.

If the Government would appoint some Inspector to visit every "Home," they would soon be satisfied.

(Letter from Dr. Morton, of Bradford, put in evidence by Miss Rye.)

Bradford, Ontario, March 31, 1875.

Dear Miss Rye,—Taking such an interest in your good work, I again write to you to say that all your little girls located in this neighbourhood are very well, happy and comfortable, and give unusual satisfaction; they are in every instance treated as members of the family; and so soon as you have any others I hope you will let me know, as I can get good places for six or eight more; you may feel assured I would recommend no person to you whom I could not rely upon as treating them kindly and affectionately. I enclose you three photographs of them which I now happen to have, and if you should like some likenesses of the others I dare say I can get them for you, and with best wishes, believe me to be

Yours faithfully,
(Signed) Geo. D. Morton, M.D.

(Letter from the Rev. Dr. McMurray, Rector of Niagara, placed in evidence at his request.)

Sir,—I hope you will pardon the liberty I have now taken in addressing you upon a subject of very deep importance. I allude to the work in which Miss Rye has been engaged for several years past in bringing to this country workhouse and pauper children from England.

You are doubtless aware that "our Western Home," an institution which Miss Rye has provided for the reception of these children, is situated in my parish, which has given me an opportunity of becoming acquainted with her work, and, therefore, I feel it my duty to state to you, in as few words as possible, the great success which has attended her praiseworthy and self-denying efforts.

I am now and have been a constant visitor at the "Home," and have had every opportunity of seeing how it is conducted, of judging how the children are cared for, and also of the great pains taken to place them out to the best advantage to their future welfare.

I have therefore very great pleasure in being able to state to you that the institution is conducted with marked ability and in the most unexceptionable manner; that all the care that human foresight can bestow is taken; that the children are kindly treated and are comfortable and happy while at the "Home;" that the utmost solicitude is manifested on the part of Miss Rye, and those whom she has associated with herself as guardians, to place the children in families where they will be kindly treated and brought up in a useful and respectable manner, and her efforts, I am happy to say, have been crowned with success.

Having lately had placed in my hands the report of Mr. Doyle, sent out to this country to inspect Miss Rye's work, as well as that of Miss Macpherson, and having read it carefully, I felt myself constrained in justice to that lady to write at once to the Right Hon. G. Sclater Booth, President of the Poor Law Board, upon the subject, and to express my dissent from many of the statements therein contained with regard to the work of these excellent ladies, but more especially with reference to Miss Rye's. I do not think I can do better than give you here an extract from the letter I addressed to the President of the Poor Law Board:—

"Having had placed in my hands to-day (February 23rd, 1875,) the report of Mr. Doyle, lately sent to this country to examine into the condition of the pauper and workhouse children, brought out by Miss Rye, I must express my astonishment that any such report should have been made by Mr. Doyle, as expressive of the state of the work in Canada. I speak more particularly of Miss Rye's work, as I am not so conversant with Miss Macpherson's, her sphere of action being in another part of the Province. Miss Rye having established her Home for the children she brings out, in my parish, I naturally took an interest in her praiseworthy work, and from its commencement have had more or less to do with it, and moreover, I have acted gratuituously as Chaplain to the "Home" whenever my services have been required, and always rendering my assistance on those days especially when the children are given out.

"I have no hesitation in saying that Mr. Doyle has put a most unfavourable construction on Miss Rye's work, by singling out a certain number of cases where the children have not turned out well, which, I am happy to say, considering their antecedents, and the large number placed out, is wonderfully small; but he has more scrupulously avoided taking the other side of the picture, and showing in all honesty, as he should have done, how large a proportion he found in comfortable situations, and doing well. I may safely say, and I am sure I will be borne out by all right minded people here, whose opinions are worthy of respect, that Miss Rye's work, as a whole in Canada, has been eminently successful, and a blessing to the children she has brought out. That there would be some bad cases, was assuredly to be expected, but these should not have condemned the whole work, for we find such in the best brought-up and educated families.

"I feel satisfied that three per cent. of the children Miss Rye has brought to this country would cover the cases to which Mr. Doyle so pointedly refers. I may further remark, that it would have been far better, and fairer to both Miss Rye and Miss Macpherson, if Mr. Doyle had reported separately upon their work, for that which applies to one can by no means be construed as applying to the other.

"But it is not my intention to notice at full length the glaring inaccuracies which his report contains, nor is it my object to contradict his statements myself, but to ask you in all fairness to *hear the other side*, before action is finally taken upon it, for a more ill-informed representation of Miss Rye's work here could not, in my humble opinion, have been made by any one who professed to have examined its merits.

"I must apologize for thus troubling you, which I should not have done but in the cause of justice to one, who has devoted her whole life to the amelioration of the condition of the pauper and workhouse children of England."

I shall feel greatly obliged to you to place this before your Emigration Committee, which I understand is now investigating this subject.

I have the honour to be, Sir,
Your obedient servant,
(Signed) William McMurray, D.D., D.C.L.,
Rector of Niagara, Rural Dean, &c.

John Lowe, Esq.,
Secretary of the Department of Agriculture, Ottawa.

We, the undersigned inhabitants of Niagara, having read the above, fully concur in and endorse the same.

(Signed) Frederick Marson, M.R.C.S.L.,
Wm. Kirby, J.P., Collector of Customs,
Henry Pafford, J.P.,
Robt. N. Ball, J.P.,
John W. Ball, Church Warden.

(*Notes by Miss Rye on Mr. Doyle's Report, put in evidence at her request.*)

Page 1.—Emigration of *pauper* children to Canada.

If so; why mix up accounts of the Arab children with the investigation?

Page 4.—Says addresses given were incorrect.

By whom—by Miss Rye or Miss Macpherson? As far as I am concerned the postal addresses were given; and I find letters reach the children safely.

Page 4.—No one in Niagara knows the workhouse girl *reported* by Miss Rye as on the streets.

I did not *report* this girl as lost; I said I was *afraid* such was the case; and curiously enough, she came to see me at Niagara, all right a month after Mr. Doyle's visit.

Page 5.—Gutter children—such is the class of which Miss Rye's work is largely composed.

This is not so, the proportion is not 200 in 1,370 souls.

Page 6.—Several thousand pounds a year contributed by private individuals in England for the work.

I have only one Home in London, and that is at Peckham. This was not commenced till 1873; and the accounts are yearly audited by E. Antrobus, Esq., one of our oldest metropolitan magistrates; and the Home at Peckham had its rise in a gift of 500*l.*, *made to myself* by a personal friend.

Page 6.—Although in 1868–9 the guardians of *two* or *three* unions, &c.

In 1869, the Kirkdale Union at Liverpool, gave me the first party of children ever brought to Canada; and it was not till 1873 that I brought any street children.

Page 6.—The girls shall be looked after until they are 18 years of age.

My promise to the guardians was, that they should be apprenticed until they were eighteen years of age. The words referred to were inadvertently printed on the papers for the street children, and were used to explain in a short sentence, the spirit of the indenture which makes other persons and not myself the custodians of the children.

Page 6.—Children sent out from reformatories.

I have only brought out three such children, and they came out in 1869; two out of three are doing remarkably well; one is lost sight of.

Page 7.—In cases where parents are living, their consent to emigration of the children is *said* to be obtained.

As far as I am concerned it is always so obtained, and I have too much knowledge of, and respect for the law to do otherwise; moreover I not only get the consent of the surviving parent of a child, but also require two witnesses to the transaction.

Page 7.—A girl of seventeen, who came against her will, &c.

If one of my girls, I do not know who, and certainly she was old enough to have expressed an independent opinion on such a matter.

Page 8.—St. George's Home, Montreal,—bad.

I have stopped there several times for 6 to 12 hours with the children, and have always met with the greatest possible attention and kindness.

Page 8.—Miss Rye stops *sometimes* at Toronto while *en-route* for Niagara.

Always.

Page 8.—Miss Rye has no distributing homes at New Brunswick and Nova Scotia.

Miss Rye has been allowed by the kindness of the lady managers of the orphanages at St. John and Halifax, to have the use of the Homes in both cities, and the very valuable co-operation and kind assistance of the ladies in placing out the children.

Page 11.—The precautions taken by Miss Rye to obtain information respecting applicants for children *appears* to be on paper minute and careful.

My plan of getting at information relating to the character, &c. of persons applying for children differs from that pursued both by Miss Macpherson and Mr. Stephenson of the Bonner Road Schools,

London, and Hamilton distribution homes, where persons applying for children *bring* or *send*, together with their letter of application, the necessary certificates of character. When persons apply to me for a child I send them the schedule marked E. in this report, and when that is filled up I *write myself* to the two referees and ask for *confidential* information.

Page 11.—*A large number* of Miss Rye's female children are placed out under the indenture of adoption.

That is from 10 to 15 per cent. as stated elsewhere.

Page 11.—*A third* form of indenture used by Miss Rye.

I have only two forms of indentures for girls, viz.: That for adoption used for children up to 9 or 10 years of age, and the indenture of service used for girls from 10 to 18 years of age. The indenture lettered I. refers to boys, of whom I have brought out comparatively few.

Mr. Doyle thinks these indenture papers are not worth much in Canada. I would respectfully ask him how much they are worth in England?

Page 13.—Some of the people who take the children only *recent* settlers.

The majority of persons who have taken my children are persons who have lived on their own property 20, 30, or 40 years, and I have not on all my books six families who have lived under three years in the same neighbourhood.

Page 13.—Canadian farmer, bound to make the most of his season, works from day-light to dark.

True; but what of the long leisure of winter, and the winter's schooling for the children?

Page 14.—Situations in which children are placed in towns and villages are of a very inferior character.

Granted, inferior children cannot be placed out in first-class homes, and Mr. Doyle ignores the fact that in six years 760 places have had to be found for 290 unruly and disobedient returned children.

Page 14.—The *semi-criminals* of our large cities.

I have brought none.

Page 14.—Most unfair to the children of Poor Law Unions that they should be associated with children of this class.

The arab child as a rule is more intelligent, more easily ruled and immeasurably more affectionate and grateful than the workhouse child; the latter has but one advantage over the street child, viz., education, *i.e.*, a knowledge of reading and writing. The obstinacy and deceit of the workhouse child is most frightful and disheartening, to quote the words of a most intelligent Canadian farmer, who knows nothing of our English Union Schools, except by observation of the children. "It seems "to me that the children in Union Schools have never done anything before they came to Canada, "except what they have been made to do, and that their contempt for authority arises from the fact "that, while they in their daily life are in daily contact with a certain set of authorities, yet the "children are fully aware that this authority is only a delegated power, and that there is a court "of appeal for the children, to whose decision their teachers have constantly, at the *ipse dixit* of a "child, to bow."

Page 15.—Many persons who at first looked well at the plan have since changed their minds.

As far as this is concerned this is not incorrect. My work was first questioned, then smiled at, and now highly approved.

Page 15.—The children should be trained in these homes, &c.

Where we find children especialy ignorant of household work we do so, and I have spent many four and five hours at a stretch standing over girls scrubbing, washing, and cooking.

Compare this with Page 16.—For girls this training should be if possible in the families of Canadian householders.

Page 16.—Miss Rye's ship matron appears kind and intelligent.

This matron has worked for me 12 years, and before she worked for me was in the employ of the Government Emigration, 81, Park street, Westminster.

Page 16.—Matron, one person.

We have always from six to ten adult women in our party who assist the matron, and either two or three stewards, belonging to the ship's company, whom I fee, and who are down amongst the children to help the matron.

Page 17.—Children's heads in a very filthy condition.

This is too true, and as we get the children chiefly from the workhouses, this cannot be very much wondered at. I had forty little girls out from Peckham last October, and their heads when they landed were as clean as mine to-day.

Page 17.—I cannot say they have been successful in creating a feeling of confidence in the Homes.

On the 22nd September 1874, when Mr. Doyle was in Canada, I invited about 500 persons to meet him, and a three weeks notice was given of the gathering. Had Mr. Doyle been at the Home on that day he would have seen some 300 happy, bright children, and been in a better position to have given an opinion on this subject. Children who have been naughty and disobedient and threatened with punishment finding themselves *en route* for the Home, and Miss Rye, who is to their little minds, the very embodiment of punishment, are not very likely to have much pleasure in looking forward to a return visit to the Home; neither should they.

Page 20.—Miss Rye trusts to the accident of being able to find persons in different districts who will relieve her of the responsibility of finding homes.

This is absolutely incorrect. I have already given the names of persons who are kindly working with me, who, for the work sake, have quietly worked with and for me these five years, and are now valued and personal friends.

Page 20.—Child removed, because man drank, *next day;* rough men and learning to swear; master drank.

No such entries in any of my books.

Page 20.—I cannot help thinking that in a country in which wages are so high, &c. more favourable terms.

My experience of six years leads me to believe that the terms I ask for the children are, on the whole, satisfactory and fair to both employer and employed.

Page 21.—Union children branded, &c., &c.

Divine love and compassion for these poor children having moved our hearts to better their condition, we are not likely to go running about the country speaking against our own little ones.

Page 25.—Miss Rye not able to give the address of the girl at Newcastle.

For the very reason that when Mr. Doyle visited us the girl was being removed.

Page 26.—Children at Drummondville and St. Catherines not visited, though within easy distances of the Home.

The very reason why they were not visited, because children living so near can and do come and see me, and I confine my visiting to the far off places such as Mount Forest, London or Chatham.

Page 29.—Boy in a small room without proper ventilation.

Would venture to suggest that the ventilation of the railway arches is no doubt much more complete.

Page 29.—Whereas, ninety per cent. of the children sent out to Canada are Church of England, etc.

Referring in conversation to this matter to me, Mr. Doyle made the remark while in Canada, that if this one fact alone were known in England it would ruin the work. As a matter of fact the statement is correct—not more than ten per cent. of the children do go into families worshipping at Church of England—while they are under my care we all attend the services of the Church of England. I have had some eight or ten baptised into that church, and about the same number confirmed. It seems to me, judging by the state of religious ignorance in which I find the children when they first come to me, while they have been nominally members of the Church of England, that a very large number of them have been trained in the Church of Indifferentism, and that by placing them as I do with Presbyterians, Wesleyan Methodists and Baptists, who form the bulk of the worshipping people of this great nation of Canada, that I am at any rate giving them a chance of becoming incorporated into that body of Christ—which is the church—and which knows neither Episcopalian, Presbyterian, Baptist or Methodist—we want but pure God-fearing men and women, not merely members of certain churches.

Page 31.—A land of promise for the boys.

And if so, why not for the girls?

Page 32.—Several of the children lost sight of.

See page 27—Not so very large a number taken from 1,300 children, and extending over six years work.

Page 33.—Charges publicly made; Canadian press; Miss Rye and Miss Macpherson's pecuniary interest.

I have never seen any such charge made at any time against Miss Macpherson and only once against myself, and that was traced to a discharged matron of my own.

Page 33.—Drawback of six dollars on each immigrant.

Incorrect; six dollars on each adult, and sometimes it takes three children to make an adult.

Page 33.—Miss Rye obtained from the Department at Ottawa passage warrants.

I have never at any time had any communication on the subject with Ottawa, and what I have paid has been to my shippers direct.

Page 35.—Girls ought not to be sent out at a later age than seven to nine.

If so, Mr. Doyle had better himself take charge of the work, as no one in their senses would undertake such a scheme.

MARIA S. RYE,
The Russell House, Ottawa.

9th March 1875.

Honble. Mr. Justice Dunkin, P.C., appeared before the Committee:—

Q. Have you any, and what knowledge of the work carried on by Miss Macpherson or Miss Rye?

A. I cannot say I have personal knowledge of Miss Rye's work, or am in a position to speak of it otherwise than at second hand or by hear-say. Of Miss Macpherson's I have seen and know much.

My attention was first called to it early in 1870, not long after I became Minister of Agriculture, by letters (official and private) from the late Mr. Dixon, then London Agent of my Department, a most faithful and reliable public servant, in which, from his London point of view, he wrote of it in terms of the highest eulogy. No special favour being sought for it, I had no occasion to inquire as to it here, officially. But I satisfied myself beyond doubt by unofficial inquiry, that at and around Belleville, then its one Canadian centre, it was to the full as deserving of sympathy and encouragement as it possibly could be in England.

I first met Miss Macpherson here in the fall of 1871, and had no hesitation, from what I had then learnt, in at once urging on her the establishment of a second Home in my own section of country, the Eastern Townships. It was thus, in a great part, at my instance that the Knowlton Home was founded. And that at Galt, also, was founded about the same time, making up the number of her three Canadian Homes, since and now in operation.

Leaving political office to become a Judge of the Superior Court, I have been resident close to the Knowlton Home ever since it was opened. Miss Barber, who took and still has charge of it, is my sister. My wife and our other sisters are, as a matter of course, in constant communication with her; and almost everything of interest as it occurs there is known to me. Miss Macpherson has, of course, been there and on visits at my own house repeatedly; and almost all her co-workers who have since been in Canada have also been there, and so become personally well known to me. I can safely say that her work, now especially in reference to Knowlton and its Quebec Territory, has engaged from the first all the attention I could possibly give it; and I have only become more and more convinced, with fuller knowledge, of its exceeding public value. It has brought out a great number of well-selected young people of all ages, from early childhood upwards, an overwhelming majority of whom are certainly known to be doing well,—many wonderfully well; and an extremely small proportion only of whom

are known, or may be fairly surmised to have not done well. They are brought out and treated at the Homes with the utmost care and kindness, are placed out with great precaution, and looked after, where placed, as closely as our wide distances and the limited number of the workers allow; are received back with like kindness on return from place, and again placed out with like precaution ; are cared for if (as, of course, sometimes happens) they return sick; in a word, are regarded and treated, in the Homes and out of them, as children should be by parents. I have not always felt sure but that the indulgence might be rather in excess, as perhaps tending to make the Homes too attractive in comparison with out places. But of the thoroughly parental character of the care taken of them there can be no possibility of doubt ; nor can there be any of its generally successful result. As I have seen it,—and I repeat I have so seen it as to be able to speak confidently,—it is a religious charity, carried out with as strict and thorough adherence to religious and charitable principles as I can well think possible.

Q. Have you seen Mr. Doyle's late Report to the President of the Local Government Board at home ; and if so, what have you to say to it?

A. I have only had time to examine Mr. Doyle's Report rather hastily. But I see that it is full of misapprehension and mistake,—to use the mildest terms possible; the work of a reporter prepared to see, hear, argue and suspect whatever squared with the prepossessions natural to English poor-law officialism, and whose flying stay here and there in Canada has wholly failed to correct those prepossessions or give him any distinctive view of what can or cannot be done, for good or ill, in a country so unlike England (in respect alike of poverty and of wealth) as Canada is. With children and young people seriously in demand, labour scarce, wages high, capital only growing towards the measure of our needs, and not yet in the least danger of accumulation in too few hands,—in a word, with the hard and fast dividing line of rich and poor (as drawn in England) unknown—covert cruelty to, or ill treatment of children or young people, to any extent, merely cannot be. Miss Macpherson's workers do their best to select good homes; and, as a matter of well-known fact, they very generally can and do choose well. If, as must happen, now and then they make mistakes, Canadian social habits are such as to make it morally certain that some neighbour or other, if not the whole neighbourhood, will protect any child from wrong. Besides their visitings, the ladies and gentlemen working at, and otherwise in connection with the Homes, maintain a constant correspondence by letter with and about the children. It is everywhere notorious that they are earnestly cared for at the Homes ; and it is impossible that any crying harm can go on for more than a very short time before getting to be known there, and, of course (when known) attended to, that it may be remedied. Of course, the visits and correspondence are all of the most friendly character possible. Nothing else would do. Canada has no poor-laws,—no defined classes of rich and poor for such laws to deal with. And much as our people want labour and prize children as they grow up, they would never stand any system of official interference with the freedom of their family affairs. Not to say that it would be a death-blow to the work, in respect of its essential character, were serious attempt made to engraft on it this feature. What we have to do is to absorb these young folks into the mass of our community as fast as we can, to take from them all distinctive mark, to make them as thoroughly Canadian as though they had been born here. To have a body of officials constantly on their track, with all the machinery of investigation, report, and what not, that might be good for England, would be to create and maintain here the very line of distinction we must not have,—a line of class mischievous in every aspect, and from the Canadian point of view, purely intolerable.

I should like to see the Government here, whether Dominion or Provincial, giving to this work, and to all like it, the benefit of their attention, and of a judicious oversight—to say nothing of more active encouragement, such as it merits and might well receive. But that oversight to do good might be kept within reasonable bounds. An earnest work of charity properly so called, and above all such a work having necessary connection with religious motive cannot here be carried out under state direction, nor even under a system of direct interference by the state ; those who undertake it must have all needed freedom; or it must wholly lose its character, and sink into a mere routine of governmental administration, worthless or next to worthless for its main and highest ends.

Q. Are there any points of detail in the report on which you would state your views to the Committee?

A. It would take far too much of the Committee's time, and make my answer far too long, were I at all to follow the report into detail. A very large proportion indeed of all that it suggests,—adversely to Miss Macpherson's work, at least, it answers of itself. The rest of its implied charges against that work I am well assured admit of, and will have in due time, abundant answer.

There are only a very few matters connected more particularly with the Knowlton Home on which I should care at present to remark.

The "fixed wooden guard beds one placed above the other," which are called (p. 8) "very objec-" tionable," are (as was explained to Mr. Doyle), a mere temporary expedient for the dormitories ; occasioned partly by difficulty of getting, in the hurry of the first fitting of them up, a supply of suitable bedsteads, and partly by some shortness of funds. They are not yet removed ; but will be as soon as possible. Meantime, the upper tier (as also was explained to Mr. Doyle) is unoccupied, unless for quite short periods on arrival of a new party. And the bed frames and bedding are kept scrupulously clean, as indeed is everything about the Home.

The caricature sketch given (p. 9) by Mr. Doyle of the attic available for sick-rooms is unfair,—though perhaps not meant to be so. They are neither so wide nor so high as (with ampler means at command), they would have been. But the ceiling of each is partly flat and the slope of the ceiled roof strikes a plastered wall and not the floor. Their height and width too, and the pitch of the roof, are not at all what the sketch suggests. And they have been improved since Mr. Doyle saw them, by the putting in of a good-sized gable window, besides that at the far end into each. They are now very fair rooms for the purpose they are to serve, a purpose of only exceptional use.

The building has been further much more improved, by the raising of parts of the main roof and the completion of the main attic story, in which there are now three new and very good rooms, besides valuable store-room space. It is a good building, remarkably well placed, and fairly adequate to all its purposes; though of course abundantly improvable as further means shall be forthcoming. With

the five or six acres of land on which it stands, and its accessories of furniture, &c. (everything bought low), it has cost about $8,000. And as yet, it is a mere result of private liberality; no public money having aided as to it, at all.

Mr. Doyle is wrong again in saying (p. 8) that "beyond the provision of separate sleeping rooms" for boys and girls, "there is no attempt at classification." He was there at a time when the arrangements of the new building were rather in progress than yet made; and he was not there long enough really to appreciate their details. The boys and girls have separate grounds, and are otherwise divided. And the classifications generally, though no doubt improvable, and indeed in course of constant improvement, are on the whole better than if they were more like those of an English workhouse. The arrangements are all made as nearly as may be to follow the model of family life. And no one yet that I know, who has ever seen them close, has regarded them as otherwise than quite good,—well suited to attain their end.

As for making the Home a training school for "two or three years" for all comers over the age of 12 (p. 10), I can only call the idea preposterous. Mr. Doyle sets it aside himself, in the very next sentence after that in which he suggests it. "For girls," he goes on, "that training should be, if "possible, in the families of Canadian householders." Certainly, and so also, to answer its real end, it must be for boys too. A model workhouse life here for two or three years, would only unfit for all life here thereafter.

The estimate of 200*l.* for the yearly expenses of each of Miss Macpherson's Homes, which Mr. Doyle gives (p. 34) in connection with some other wild financings, is hardly less preposterous. The oversight of the Knowlton Home, by my sister and her associates in the work, may fairly enough be set down as costing nothing. And though Mr. Doyle makes a slight mistake in saying (p. 9) that "there are for "the indoor domestic work *no* paid servants or domestics," the very small part of this that is paid for costs very little indeed. But the outlay of the Knowlton Home for 1874, scarcely fell short of $5,000, or say 1,000*l.* sterling. Of this $3,000, or 600*l.* sterling (three times Mr. Doyle's guess), were for current expenses of the year.

The remark of the "intelligent shrewd girl of between 16 and 17," that "doption, sir, is when folks "gets a girl to work without wages" (p. 12), is equally wide of the mark. At least from the Knowlton Home, and I am sure enough, indeed, from Miss Macpherson's other Homes—adoption is not known excepting for mere children. It could not be, and I repeat it is not.

Mr. Doyle fancies (p. 16) that the conditions of service are made too much "in favour of the employer, "that in consideration of getting cheap labour he may be willing to put up with serious faults of character "and conduct." In real truth, there has rather been at Knowlton (and I daresay at the other Homes too) an excess than a want of urgency in the matter of stipulated wages. Girls and boys, new to the country, and unknown altogether to the parties taking them, cannot at first command the pay that they are sure to get after some little time. Few of them know or can do the sort of things that every one here of their age knows and does of course, until after some time spent in the doing of such things in private employment here. For a short time, it is better to get them into a really good place, on almost any terms of payment, than to keep them too long on hand in the less practically advantageous position involved in a long stay at the Home, or in a second-rate place where perhaps an employer may consent to offer more.

Q. Have you observed the statement on page 17, as to the "filthy condition" in which children are said to have been placed out from the Knowlton Home?

A. Yes; Mr. Doyle mentioned there, that he had so heard, and was at once told the facts. The Report implies a state of things which does not exist. "The explanation," it says, "of children being "allowed to leave in such a state was, that people were so impatient to get them that, though cau- "tioned as to their condition, they would insist upon taking them." For the first arrival or two this was so, to some extent. Persons coming (often) from a distance, and not willing to come again or risk loss of a particular child, *were* reluctantly allowed to have their own way. But the fact that in some cases—not many—complaint was made, soon put a stop to this. The assumption of the Report (p. 17), that "the personal cleanliness of the children is very much neglected during the voyage,"—and that "greater attention during the voyage might to some extent at least, obviate this cause of complaint," —must pass for what it is worth. It rests on Mr. Doyle's statement, that a certain party of 150 sent out by Miss Rye, and whose starting he witnessed, "was under the charge of a matron who appeared "to be a kind, intelligent woman," but whose duties, children, who came out under her care, told "me did not involve the sort of service of which children, under such circumstances, stand most in "need." Of that case, I known nothing. But I know Miss Macpherson's parties come out with much stronger attended force. Indeed, besides steerage attendance proper, some worker or workers (of either sex, or both) coming in the cabin and spending great part of their time in the steerage, never fail to accompany them. And at least in one case that came incidentally under my notice, a lady, whose natural place would have been in the cabin made herself a steerage passenger with the children. They are, emphatically, *not* by any means neglected on their passage. Nor on their arrival is their state as to cleanliness in any sense exceptional or discreditable. Latterly, indeed, unlike the mass of arriving emigrants, they have been allowed to travel in first-class cars on the railway from Quebec, the lady and gentlemen workers with them; as indeed, they always were in the olden time, when the cars were the rougher and less clean cars of the ordinary steerage passengers.

Q. On page 20, Miss Macpherson is described as "anxious to get the children off immediately upon "their arrival." Is this so?

A. Certainly not at Knowlton. On occasion of the first few arrivals, people to a considerable extent overbore Miss Barber's unwillingness to let the children go off at once. All is done that reasonably can be done, to keep them in the Home for a sufficient time before they are placed out. And I have no idea that the Knowlton rule differs in this from the rule at Belleville and Galt.

Q. On page 6, "the children are said to comprise not only 'arab' and 'pauper' children, but also "children from Reformatories;" and on page 14, it is said, "Of the children sent out, a large pro- "portion, as I have observed, are described as being of the very lowest class—the semi-criminals of "our large cities and towns." Is this so?

A. I never heard of a single child from a Reformatory, or of the semi-criminal class, having been sent out. If any had been, I am sure I must have become aware of it. I do not hesitate to say that the fact is not so.

As I have already said, much care is taken to select well. And the mistakes made (unavoidably, one may say) are remarkably few.

Q. What has been the proportion of cases that should be called *failures*, at the Knowlton Home?

A. I cannot give exact figures, not having thought of asking for them. But I know the proportion to be incredibly small. I doubt whether it exceeds (or even reaches) two per cent. And, as I have already said, the proportion of unmistakeably successful cases, is on the other hand extremely great. Success is the rule. Want of success the exception.

Q. What deaths have there been from among the Knowlton Home arrivals?

A. One in three years, and out of some 280 arrivals. If there has been any other, it must have occurred very lately, and at a distance,—not to have been heard of.

That case was the case of an extremely promising lad, as to whose state of health a mistake was made in London. He was carried off soon after arrival by rapid consumption, for which he was treated with the greatest care at the Home, till at last Miss Barber was obliged to remove him (she going with him herself) to the Montreal General Hospital. The kindness lavished on the poor boy there by every one having anything to do with him was such as could not have been exceeded.

Q. What do you think of the suggestion (pages 31 and 32) that the direct superintendence and care of juvenile immigration should be assigned to the municipal and school authorities?

A. It is one that I think no one but a stranger to Canada, full of English poor-law ideas, could have thought of. It would be the constituting (in effect) of a poor-law machinery here, for the one class of juvenile immigrants. If it could be tried, it would kill off all action by other machinery, and would fail otherwise in every respect. That it could not be tried, or here seriously entertained, is the best thing one can say of it.

The Chairman submitted the following letter from Mr. A. Thompson, M.P. (Welland):—

" House of Commons,
" 27th March 1875.

" To the Chairman of the Committee on Immigration.

" Dear Sir,—I live near Miss Rye's 'Home.' I have never visited the establishment, but I " can confidently say that the labours of Miss Rye are highly appreciated throughout all the neigh- " bourhood, and I never have heard a word against her in a pecuniary or any other sense.

" I hope Miss Rye's labours and transactions will receive the most generous construction by the " Committee.

" Yours truly,
" Wm. A. Thompson."

The Chairman submitted the following letter from Miss Rye:—

The Russell House, Ottawa,
24th March 1874.

C. H. Pozer, Esq.,
Chairman of the Emigration and
Colonization Committee, &c.

My Dear Sir,—In my address to your Committee the other day, I left a few matters unexplained, and with your permission I should like to make the following addenda to my previous statements:—

I commenced my work for the emigration of pauper children from England in October 1869, since which date the work has been imitated by the following persons, all acting, I believe, independently of each other—Miss Macpherson, with her three Homes of Galt, Belleville and Knowlton, and with whose labours you are already well acquainted; Mrs. Birt (a sister of Miss Macpherson), labouring at Halifax, and who, like myself, has (I believe) used the orphanage of that town by kind permission of the lady managers of the establishment, for distributing her children in Nova Scotia, and the Rev. F. Bowman Stephenson (a member of the London School Board), whose homes (for boys and girls) are located at Bonner Road, London, England, and the Home Farm, Lancashire, the distributing home in Canada being at Hamilton; also Mr. Middlemore's Home at Birmingham with its distributing home at London, Canada West.

These, together with the children sent out by the Roman Catholics, under the auspices of the Archbishop of Westminster, and I believe under the immediate care of Miss Fletcher, but whose distributing home in Canada I cannot name, form to the best of my knowledge the off-shoots of my idea broached in the English *Times* of 1868.

The Roman Catholic children have been sent from the St. George's (Hanover Square) Union Schools, which have from time to time committed six parties of children to my care, and it was through the unwearied exertions of two members of that Board, viz., Colonel Fremantle and Mr. R. Fleming, that the Roman Catholic members of that Board availed themselves of so great advantage for placing out in life members of that one persuasion in Canada.

I do earnestly beg your Committee to recommend to your Honourable House that the closest investigation be made of our several books, papers, and accounts, and also having regard to the possible ultimate stream of available emigration which can flow from our workhouse schools, I would suggest a house to house visitation, so that it shall not be possible in England to say that your Committee has selected a few favourable cases as a balance to Mr. Doyle's few unfavourable ones. Let the work be judged as a whole, and I believe if a very large Commission were formed and the work divided geographically, and many members of your House asked to co-operate, the thing could be done simultaneously, and with an accuracy equal to its rapidity.

Believe me, dear Sir,
Yours very faithfully,
Maria S. Rye.

IMMIGRATION AND COLONISATION.

FIRST REPORT of the SELECT COMMITTEE OF THE PARLIAMENT OF CANADA on IMMIGRATION AND COLONISATION.

(Presented by Her Majesty's Command.)

Ordered, by The House of Commons, *to be Printed,*
23 *June* 1875.

275.

Under 3 *oz.*

154

CORRESPONDENCE

RESPECTING A

RESERVED BILL

OF THE

CANADIAN PARLIAMENT,

INTITULED

"An Act to Regulate the Construction and Maintenance of Marine Electric Telegraphs."

Presented to both Houses of Parliament by Command of Her Majesty.
February 1875.

LONDON:
PRINTED BY HARRISON AND SONS.
[C.—1171.] *Price* 1½*d.*

TABLE OF CONTENTS.

No.	From or to whom.	Date.	Subject.	Page
1	The Earl of Dufferin ..	June 4, 1874 (Rec. June 17)	Transmitting an Act to regulate the construction and maintenance of marine electric telegraphs ..	1
2	The Earl of Dufferin ..	Oct. 2, 1874) (Rec. Oct. 13)	Forwarding copy of a Report of the Privy Council of Canada, dated 2nd instant, in reference to the recent Telegraph Act of the Dominion Legislature which has been reserved for Lord Carnarvon's consideration	4
3	To the Earl of Dufferin ..	Oct. 29, 1874	Stating that it has been decided to leave the Marine Electric Telegraphs Bill of the Dominion Legislature in abeyance, and to tender no advice to Her Majesty respecting it	7
4	To the Earl of Dufferin ..	Nov. 19, 1874	Transmitting copy of a despatch of 17th instant, addressed to the Governor of Newfoundland, respecting power possessed by his Government under Section 15 of the Newfoundland Act No. 2 of 1854	8

Correspondence respecting a Reserved Bill of the Canadian Parliament, intituled "An Act to Regulate the Construction and Maintenance of Marine Electric Telegraphs."

No. 1.

The Earl of Dufferin to the Earl of Carnarvon.—(*Received June* 17.)

My Lord, *Government House, Ottawa, June* 4, 1874.

I HAVE the honour to inclose a copy of a Bill which I have thought it desirable to reserve for your Lordship's approbation.

Accompanying the Bill is an Order in Council explaining its provisions, and insisting with very great force on the desirability of the object it is intended to effect.

My Government attach the very greatest importance to the measure, and have requested me to urge their views upon your Lordship in the strongest possible language.

I have, &c.
(Signed) DUFFERIN.

Inclosure 1 in No. 1.

An Act to regulate the Construction and Maintenance of Marine Electric Telegraphs.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. This Act shall apply—

(1.) To every Company or association of persons hereafter authorized by any special or general Act of the Parliament of Canada or under the provisions of this Act, to construct or maintain telegraphic wires or cables in, upon, under, or across any gulf, bay, or branch of any sea, or any tidal water within the jurisdiction of Canada, or the shore or bed thereof respectively, so as to connect any province with any other province of the Dominion, or to extend beyond the limits of any province.

(2.) To every Company authorized to construct or maintain such telegraphs before the passing of this Act by any such special or general Act of the Parliament of Canada, or by any other special Act or Charter of any of the provinces constituting the Dominion and at the time of the passing of this Act in force in Canada.

2. The term "Company" in this Act shall mean any Company or association of persons in the preceding section mentioned.

3. The Company shall not place any telegraphic wire, cable, or work connected therewith in, under, upon, over, along, or across any gulf, bay, or branch of the sea or any tidal water, or the shore or bed thereof respectively, except with the consent of all persons and bodies having any right of property or other right, or any power, jurisdiction, or authority, in, over, or relating to the same which may be affected or be liable to be affected by the exercise of the powers of the Company.

4. Before commencing the construction of any such telegraph or work as last aforesaid, or of any buoy or sea-mark connected therewith, except in cases of emergency for repairs to any work previously constructed or laid, and then as speedily after the commencement of such work as may be, the Company shall deposit in the office of the Department of Marine and Fisheries a plan thereof for the approval of such Department. The work shall not be constructed otherwise than in accordance with such approval. If any work is constructed contrary to this provision, the Department of Marine and Fisheries may, at the expense of the Company, abate and remove it, or any part of it, and restore the site thereof to its former condition.

5. The Company may, in or about the construction, maintenance, or repairs of any such work, use on board ship or elsewhere any light or signal allowed by any regulation to be made in that behalf by the said Department.

6. If any such work, buoy, or sea-mark is abandoned or suffered to fall into decay, the said Department may, if and as it thinks fit, at the expense of the Company, abate and remove it, and restore the site thereof to its former condition, and the said Department may at any time, at the expense of the Company, cause to be made a survey and examination of any such work, buoy, or sea-mark, or of the site thereof.

7. Whenever the said Department, under the authority of this Act, does in relation to any such work any act or thing which the said Department is, by this Act, authorized to do at the expense of the Company, the amount of such expense shall be a debt due to the Crown from the Company, and shall be recoverable as such with costs, or the same may be recovered with costs as a penalty is or may be recoverable from the Company.

8. The Company may, with the consent of the Governor in Council, take and appropriate for the use of the Company, for its stations, offices, and works, but not alienate, so much of the land held by the Crown for the Dominion and the shore or bed adjacent to or covered by any gulf, bay, or branch of the sea, or by any tidal water, as is necessary for constructing, completing, and using the telegraph and works of the Company.

9. The Company may also acquire from any province of the Dominion any land or other property necessary for the construction, maintenance, accommodation, and use of the telegraph and works of the Company, and also alienate, sell, and dispose of the same when no longer required for the purpose of the Company.

10. The Company may also acquire from any person or corporation any land necessary for the construction, maintenance, and use of the telegraphic cable and works of the Company, adjacent to or near the shore end or place of landing of the telegraph. And in case the Company and such person or corporation should fail to agree upon the possession or price of such land, the Company is hereby empowered to enter upon and take such land, limited to an area of five acres, under the powers, authorities, and provisions of "The Railway Act, 1868," the sections of which, in respect to compulsory powers for the acquisition of lands, are hereby declared to be applicable to any Company within this Act, and the powers, authorities, and provisions contained in the said sections of the "Railway Act, 1868," are hereby declared to be vested in and exercisable by any such Company for the purpose aforesaid.

11. The Company shall not be entitled to exercise any of the powers of this Act until the Company shall have submitted to the Governor in Council a plan and survey of the proposed site and location of such telegraph and its approaches at the shore, and of its stations, offices, and accommodations on land, and of all the intended works thereunto appertaining, nor until such plan, site, and location have been approved by the Governor in Council, and such conditions as he shall have thought fit for the public good to impose touching the said telegraph and works, shall have been complied with.

12. The Company shall transmit all messages in the order of which they are received, and at equal and corresponding tariff rates, under the penalty of not less than 50 nor exceeding 200 dollars, to be recovered with costs of suit by the person aggrieved; and the Company shall have full power to charge for the transmission of such messages, and to demand and collect in advance such rates of payment therefor as shall be fixed from time to time as the tariff of rates by the bye-laws of the Company: Provided, however, that arrangements may be made with the proprietors or publishers of newspapers for the transmission for the purpose of publication of intelligence of general and public interest, out of its regular order, and at less rates of charge than the general tariff rates.

13. Any message in relation to the administration of justice, the arrest of criminals, the discovery or prevention of crime, and Government messages or despatches, shall always be transmitted in preference to any other message or despatch, if required by any person officially charged with the administration of justice, or any person thereunto authorized by the Secretary of State of Canada, or by the Secretary of State for the Colonies on behalf of the Imperial Government.

14. No Company or association of persons other than those mentioned in the first section of this Act, or which become incorporated in Canada under the next following section shall maintain, construct or use any telegraphic wire or cable connecting two or more Provinces of the Dominion, or extending beyond the limits of any Province in, upon, under or across any gulf, bay or branch of any sea or any tidal water within the

jurisdiction of Canada or the shore or bed thereof respectively: Provided that nothing in this section contained shall be construed to prohibit any existing Telegraph Company or association from continuing to receive and transmit messages over its line of marine telegraph, until such time as another Company, under the authority and within the provisions of this Act, has constructed and is operating a line of marine telegraph which has been determined by the Governor in Council to afford reasonable facilities for the transmission of marine telegraphic messages in lieu of the line or lines of such existing telegraph company or association, or to be a line for doing business over a route of a competitive nature.

15. In case any Company is now or shall hereafter be authorized by any special Act of the Parliament of Great Britain, or incorporated under the Imperial Joint Stock Companies' Act, or any other general Act of the Imperial Parliament or by Royal Charter, for establishing or maintaining telegraphic communication in, upon, under or across any gulf, bay, or branch of any sea or tidal water within the jurisdiction of Canada, the Governor in Council may by letters patent under the Great Seal of Canada, and upon the terms and conditions to be contained therein, grant a charter to the persons forming such Company, upon the Company petitioning therefor, and such persons and others who may become shareholders in the Company shall be constituted a body corporate and politic by the same name, and with the same power and constitution in Canada, for the said purpose and object of establishing and maintaining their said telegraph and works within the jurisdiction of Canada, but any such grant shall be expressly subject to this Act, and conditional upon the Company doing, observing, and performing the several provisions thereof, and such Letters-Patent being published in "The Canada Gazette" with any Order or Orders in Council relating to the said Letters-Patent, shall have the like force and effect, as if the Company had been incorporated by special Act of Parliament, but no such Letters-Patent or grant of corporate powers to be exercised within the jurisdiction of Canada shall be made to or conferred upon any Company or association which possesses any exclusive privilege of landing wire or cable for a marine telegraph in or upon the coast of any State, Province, or country in America, Europe, or elsewhere, unless an equal or reciprocal right or privilege of landing wire or cable, and establishing a marine telegraph upon the same coast is conceded to any and each of the Companies in the first section of this Act mentioned, or which may become incorporated in Canada under the provisions of this section of this Act, so that any Company incorporated or to be incorporated in Canada, may enjoy the same advantages in maintaining its marine telegraph line in and upon the same coast as the said Company which may possess such exclusive privilege.

16. In case any Company heretofore incorporated by any special Act of the Parliament of Canada, has acquired any exclusive privileges of landing wire or cable for a marine telegraph upon the coast of any other country, such Company shall be entitled to exercise and enjoy any such existing privilege, unimpaired by this Act; but no Company heretofore incorporated by any such special Aet, shall acquire any further or additional exclusive privileges of landing wire or cable as aforesaid.

17. The Parliament of Canada may at any time amend, vary, or repeal any of the provisions of this Act.

The above is a true copy of the Bill passed by the Senate and House of Commons of Canada and reserved for the signification of the Queen's pleasure thereon, on Tuesday the 26th day of May, 1874.

(Signed) ROBERT LE MOINE, *C.P.*

Ottawa, June 2, 1874.

Inclosure 2 in No. 1.

Report of a Committee of the Honourable the Privy Council, approved by his Excellency the Governor-General, on the 4th day of June, 1874.

THE Committee of the Privy Council have the honour to report—

That at the last Session of the Parliament of Canada a Bill was passed by both Houses entitled "An Act to regulate the construction and maintenance of Marine Electric Telegraphs," which, in accordance with paragraph 7 of the Royal Instructions was, upon the advice of the Minister of Justice, reserved by his Excellency the Governor-General for the signification of Her Majesty's pleasure: and that the Minister

of Justice thus advised, as the Bill "is one of some importance, and may possibly be considered to prejudice the interests and rights of property of Her Majesty's subjects not residing in Canada."

That the Anglo-American Telegraph Company appeared by Counsel before the Committee of the Senate to which the Bill was referred and urged that their rights and privileges would be prejudiced by it, but that the Committee reported in favour of the Bill, and the same was then passed by that body.

That the advice to the Governor-General that the Bill should be reserved was given merely in deference to the language of the Royal Instructions, and not from any conviction or belief that the Bill in any way interferes with or is prejudicial to the rights of the Anglo-American Telegraph Company, or of any other Company with similar objects or with similar rights.

That the Bill in question is calculated to afford facilities to any persons seeking incorporation for the purposes of marine telegraphs, and will tend to promote, not the establishment (or monopoly) of one Company only, but of several, for the same purposes.

Whilst, as regards any supposed rights or franchises of the Anglo-American Company, or of any other Company with which this Bill can be alleged to interfere, the Committee are quite at a loss to know in what they can be said or supposed to exist, or what peculiar rights of any kind that Company or any other can at present claim in Canada.

The 14th section prohibits any Company, except such as have been or may be incorporated in Canada from maintaining or constructing a marine telegraph (saving the user of any existing Telegraph Company, during the non-existence of any company arising within the provisions of the Bill). But the 15th section provides that the necessary corporate powers in Canada (for any company so prohibited by the 14th section) may be procured from the Governor in Council, upon condition, however, that other companies created under the authority of the reserved Bill, shall have conceded to them and enjoy equally with it any advantages or privileges which it may possess.

In these provisions, therefore, will be found the object of the Act—the encouragement of marine telegraph companies in Canada, but so as that all such companies, whether of Imperial or Canadian incorporation, shall enjoy equal rights and privileges in all respects amongst themselves, and without any special monopoly.

That is to say, Parliament is willing to extend to companies of Imperial or Parliamentary origin in Great Britain the same corporate powers which it is proposed shall exist in any companies of Canadian incorporation, provided that equal rights and privileges in all respects are enjoyed by all.

The Committee are of opinion that no company is in existence possessing rights and privileges in Canada which can in any way be legally affected by the reserved Bill.

They at the same time desire to express their strong conviction that this measure is calculated to be highly beneficial to the interests of Canada, and is also in accordance with the established policy of the country, and they submit that Her Majesty's Secretary of State for the Colonies be requested to pray Her Majesty's sanction to the Bill at an early date.

Certified,
(Signed) W. A. HIMSWORTH, *C. P. C.*

No. 2.

The Earl of Dufferin to the Earl of Carnarvon.—(*Received October* 13.)

My Lord, *Canada, October* 2, 1874.

I HAVE the honour to forward, for your Lordship's information, copy of an Order in Council dated the 2nd day of October, 1874, in reference to the recent Telegraph Act of the Dominion Legislature which has been reserved for your Lordship's consideration.

The Order in Council is accompanied by a copy of "The Money Market Review,"* and a pamphlet entitled "Memorandum of Association of Anglo-American Telegraph Company,"* and by copy of an Order in Council of the 4th of June, 1874, relative to the same subject.†

These documents have only reached me as the mail was upon the point of closing,

* Not printed.

† *Vide* Inclosure 2 in No. 1.

and I have not had time to do more than glance at the principal document. I forward it, however, being unwilling to delay its arrival in your Lordship's hands.

I have, &c.

(Signed) DUFFERIN.

Inclosure 1 in No. 2.

Report of the Honourable the Privy Council, approved by His Excellency the Governor-General in Council on the 2nd day of October, 1874.

THE Committee of Council having reference to an Order in Council of the 4th June last, of the reserved "Marine Electric Telegraph Company's Bill," have the honour further to report:—

That a telegram to the following effect from the Honourable the Secretary of State for the Colonies was submitted by your Excellency:

"Before a decision is given as to the Marine Electric Telegraph Act, Her Majesty's Government desire to know whether effect of concession of exclusive rights of Anglo-American Company, confirmed so lately as 1869 by Prince Edward Island Act, has been duly considered, and whether that Company could claim compensation for its withdrawal, also whether interests of proprietary were fully considered before the Bill was passed.

(Signed) "CARNARVON."

To which the following reply was sent:

"I am advised that the charter given by Prince Edward Island was not urged upon the Committees in Parliament (when considering the Telegraph Bill), nor was it brought before the Government. It is difficult to ascertain what privileges the concession of exclusive rights to 'New York, Newfoundland, and London' Telegraph Companies originally embraced. It is doubtful whether any such privileges now exist, as the Company is now apparently merged in another Company without Legislative sanction of Prince Edward Island or Canada.

"Despatch will be sent giving further particulars.

(Signed) "DUFFERIN."

That some delay has necessarily arisen in the further consideration of the subject of the above telegram to your Excellency, in order that the Privy Council for Canada might obtain full information thereupon.

That after full inquiry the Committee find as follows:—

1. That any exclusive concession in Prince Edward Island, by Acts of its Legislature, was in favour of "the New York, Newfoundland, and London Telegraph Company," a Newfoundland Corporation, and it was expressly limited "during its existence."*

See Statutes Prince Edward Island—
17 Vict., c. 4, 1854;
20 Vict., c. 13, 1857;
25 Vict., c. 9, 1862;
32 Vict., c. 34, 1869.

2. That the Newfoundland Company did not, in fact, avail itself of the exclusive provisions of the Act of 1854, or construct any cable on the faith of this protection.

3. That another Company had previous to the passing of that Act, laid down a cable from the island to New Brunswick, and this by section 8 was vested in the Newfoundland Company.

4. That the Committee are informed that the service was continued to be so inefficiently performed as to give rise to the conditional revocation of the Company's powers by the Act of 1862.

5. That the Newfoundland Company were to receive an annual subsidy from the Province for maintaining this line; it would, therefore, appear to have been constructed for no local convenience of the island, and not with reference to any cable line in contemplation by the Company, to which the prohibitory provisions of the Act of 1854 might have been attached.

See recitals in Prince Edward Island Statutes, 1862.

6. That, moreover, by section 6 of the Act of 1869, the right would appear to be reserved to the Executive Government to dispense with these services, and to make arrangements with any other Company for this connection.

7. That in May 1873† the Newfoundland Company became merged in the Anglo-

* Act 1854, sec. 2.

† See proceedings at "General Meeting of the Anglo-American Company, May 22, 1873;" also "Société du Cable Transatlantique, May 23, 1873;" also "Terms of Resolution adopted at these Meetings, reported in the 'Money Market Review,' May 24, 1873;" also "Pamphlet of Company."

Inclosure 1 in No. 2.

AT a meeting of a Committee of the Executive Council of Prince Edward Island, held on the 9th day of June, 1871.

Present:

The Honourable James C. Pope, President.
" The Colonial Secretary.
" The Attorney-General.
" Andrew A. Macdonald.
" Lemuel C. Owen.
" James Duncan.

The following Minute or Address to the Right Honourable Earl Kimberley, Her Majesty's Principal Secretary of State for the Colonies, intended to accompany "The Tenants' Compensation Act, 1871," was adopted and ordered to be handed to his Honour the Lieutenant-Governor for transmission:—

To the Right Honourable Earl of Kimberley, Her Majesty's Principal Secretary of State for the Colonies, &c.

Your Lordship's predecessor, Earl Granville, having, by his despatch dated 10th of June, 1870, in answer to the joint Address from the Legislative Council and House of Assembly to the Queen, praying that Her Majesty's Representative in this Colony might be instructed to give his assent to any measure of a just and equitable nature to be passed by the local Legislature as regards certain tenantry of this island, embracing the principal provisions of the Act of the Imperial Parliament for the relief of Her Majesty's subjects, tenants of land in Ireland, expressed his readiness to give his best attention to any measures prepared in the Legislature that had for their object the settlement of the difficult question of the land tenures in this island.

The Executive Council, in consequence of the intimation contained in the said despatch, introduced and carried through both branches of the Legislature, by an unanimous vote, "The Tenants' Compensation Act, 1871."

Some of the reasons showing the necessity of this measure are set forth in the joint Address hereinbefore alluded to, and the Committee of the Executive Council beg to submit the following additional reasons to your Lordship in favour of the Bill:—

The great majority of leases granted in this island are for the term of 999 years, and are not interfered with by any of the provisions of this Bill. The grievances intended to be redressed are those where lands have been granted to tenants on lease for short terms, taken, in many instances, by emigrants either previously to or immediately after their arrival in this Colony, before they were acquainted with the difficulties and hardships connected with clearing wilderness lands, and providing homes for their families. Coming from the mother-country they looked upon leases for terms of from twenty to forty years as a great boon. They, however, found by bitter experience that a term of forty years was only long enough to enable them to clear away the forest, erect suitable homesteads, and bring their farms into a state of cultivation sufficient to afford for themselves and their families a comfortable subsistence.

The tenant, after having spent the best years of his life in giving a real value to the property, in his old age finds the results of many years of labour and toil pass into the hands of his landlord, who relets the said property, with its improvements, at a high rate to a stranger, and thereby reaps a large profit from the unremunerated labour and industry of the unfortunate tenant.

The rents reserved in the leases for short terms are quite as high, and, in many instances, higher than those reserved in leases for terms of 999 years. There is no analogy between the position of a tenant in the mother-country holding a cultivated farm under a short lease and that of a tenant in this island, who takes a short lease of a wilderness farm, and is obliged to clear away the forest before he can grow either a blade of grass or an ear of corn for the support of himself and his family.

Tenants for short terms of years in this island are not entitled to the privilege of purchasing the freehold of their farms from their landlords under the provisions of the "Fifteen Years' Purchase Act," whilst many tenants for long terms of years enjoy this advantage.

The Bill which is the subject-matter of this Minute is the only remedy which the

Government of the Colony have been able to devise as an equitable adjustment of the difficulties and hardships under which tenants for short terms of years are now labouring.

The Committee of the Executive Council therefore earnestly hope that your Lordship will, after duly considering the grievances and hardships referred to, and after a perusal of the Legislative remedy which has been approved of by all the political parties in the Colony, advise Her Most Gracious Majesty the Queen to give her Royal allowance to "The Tenants' Compensation Act, 1871," and thereby preserve a large number of loyal and industrious settlers from poverty and distress.

Certified.

(Signed) WILLIAM C. DES BRISAY,
Assistant Clerk of Executive Council.

Inclosure 2 in No. 2.

Memorial and Petition of the Proprietors of Township Lands in Prince Edward Island.

[See No. 3.]

Inclosure 3 in No. 2.

CAP. IX.

"*The Tenants Compensation Act,* 1871."

THE reasons which induced the Legislature of this Colony to pass this measure are set forth in a Minute of the Executive Council which is transmitted with this Bill.

(Signed) FREDK. BRECKEN,
Attorney-General for Prince Edward Island.

June 9, 1871.

No. 3.

Mr. Stewart and others to the Earl of Kimberley.—(*Received July* 22, 1871.)

To the Right Honourable the Earl of Kimberley, Her Majesty's Principal Secretary of State for the Colonies.

The Memorial and Petition of the Undersigned Proprietors of township lands in Prince Edward Island.

Most respectfully showeth,

THAT a certain enactment by the local Legislature of this Colony, passed during its recent session, entitled "The Tenants' Compensation Act 1871," recites that "upon several township lands in this island leases have been granted to tenants of lands in a wilderness state, for short terms of years, or at will, in some instances, by indentures of lease, or memoranda of agreement, and in others by verbal agreements, such lands having been at the commencement of such tenancies entirely in a wilderness or uncultivated state, and without any buildings or improvements of any kind, and without any allowance having been made by the lessor, in such lease or agreement, to the lessee in consideration of such improvements made by clearing the forest, fencing, erecting buildings, repairing or otherwise, for the culture of the soil, in case of the determination of tenancy by the expiration of the term reserved in the said indentures of lease, or the determination of such tenancies at will or other tenancies, and such improvements pass to the landlord, without any compensation to the tenant therefore."

That the said Act provides or enacts that upon the expiry of any lease or agreement whereby any term or estate is reserved to the landlord, and upon the said landlord serving any notice to quit or demand of possession to determine the tenancy of any tenant, the tenant shall be at liberty to apply to the Supreme Court, to appoint arbitrators to determine the amount of compensation to which he may be entitled; that the Supreme Court shall then make an order appointing three arbitrators, which three arbitrators, or any two of

No. 4.

The Earl of Carnarvon to the Earl of Dufferin.

My Lord, *Downing Street, November* 19, 1874.

WITH reference to my despatch of the 29th of October,* I transmit to you, for your information, and for communication to your Ministers, a copy of a despatch† which I have addressed to the Governor of Newfoundland with regard to the power possessed by the Newfoundland Government under Section 15 of the Newfoundland Act No. 2 of 1854, to purchase the lines of telegraph and other property of the New York, Newfoundland, and London Telegraph Company with the view of terminating the monopoly conceded by that Act.

I have, &c.
(Signed) CARNARVON.

Inclosure in No. 4.

The Earl of Carnarvon to Governor Sir Stephen Hill, K.C.M.G.

Sir, *Downing Street, November* 17, 1874.

I INCLOSE, for your information, and for communication to your Ministers, a copy of a despatch which I have addressed to the Governor-General of Canada with regard to the reserved Bill of the Dominion Parliament "to regulate the construction and maintenance of Marine Electric Telegraphs."*

2. Until the course to be taken by Her Majesty's Government in this matter had been decided, I thought it expedient to defer anwering you despatch of the 9th May, in which you inclosed a Minute of your Executive Council inquiring whether Her Majesty's Government would, upon terms to be hereafter agreed upon with the local Government, undertake the purchase claimed by the Government of Newfoundland under the Act, cap. 2, of 1854, incorporating the New York, Newfoundland, and London Telegraph Company, with the view of terminating the monopoly conceded by that Act.

3. The decision which has been arrived at to take no action with respect to the Dominion Reserved Bill, in order that, if thought desirable, a fresh Bill may be introduced next session, would seem to render it unnecessary, or perhaps impossible, to decide at the present moment whether the Newfoundland Government should take any steps to terminate the monopoly under the provisions of the Act, cap. 2, of 1854.

4. In the event, however, of a sum of money becoming payable either by arrangement or award for that purpose, Her Majesty's Government do not perceive that they could properly invite Parliament to contribute a portion of that payment.

5. But, having regard to the conflicting legal opinions to which you refer in your despatch, I have thought it desirable, in the interests of your Government, to consult the Law Officers of the Crown as to the subject matter comprised within the power to purchase conferred upon the Newfoundland Government by section 15 of the Act above referred to, that is to say, whether that Government could claim to buy out the whole interest of the Company for the actual appraised value of the telegraph lines, wires, cables, apparatus, vessels, and all other appliances connected therewith, or whether any further claim could be made by the Company for compensation for the loss of the monopoly which would be terminated by such purchase, or for any other right or interest conveyed by the Act, and further as to the course which it might be advisable that the Government of Newfoundland should take with a view to determine its power to purchase.

6. I am accordingly advised that the expressions "other property" and "all other property connected therewith," used in the 15th section of the Act of 1854, were intended to comprise merely property of the same nature as the property mentioned in the parts of the section immediately preceding those expressions, and therefore that, upon payment of the amount awarded as to the value of the telegraph lines, wires, &c., under the provisions of the above-mentioned section, the undertaking of the Telegraph Company will become vested in Her Majesty, and that the Telegraph Company will not be able to insist upon the Arbitrators or Umpire awarding an amount of compensation for the good-will of the concern or the loss of the monopoly. If it had been the intention

* No. 3.

of the Colonial Legislature that the Telegraph Company, upon the exercise by the Government of the power conferred upon them to purchase the undertaking should not only retain the lands, &c., granted to the Company, but also be paid a sum for the loss of their monopoly, it may be presumed that a very explicit provision to that effect would have been found in the Act.

7. With reference to the course which the Newfoundland Government should take, if it is decided to proceed in the matter, I am advised that it would be desirable for that Government to follow exactly the directions given in section 15 of the Act, and in the event of the Company neglecting to take any of the steps incumbent on them (*e.g.* to choose an arbitrator) to call in, and the Supreme Court of the Colony to enforce compliance with the statutory requirements.

8. An opportunity would then, perhaps, arise of obtaining a judicial determination as to the rights reserved to the Government by the 15th section.

9. In thus conveying to you the advice which I have received on this subject, I do not lose sight of the reason which has rendered your Ministers reluctant to take steps for exercising the right of pre-emption; the apprehension, namely, that the award might possibly be made on the opposite principle to that which, as I have informed you, I am now advised to be the correct one, and might, consequently, involve the payment of a larger sum of money than Newfoundland could undertake unassisted.

10. Looking to all the circumstances, your Ministers will probably now be of opinion that it is not likely that any excessive sum would become payable; but on this subject it might be of advantage for the Government of Newfoundland to confer with the Dominion Government, and consider whether some terms could be laid down, on which any payment found to be necessary might be apportioned between Canada and Newfoundland.

I have, &c.
(Signed) CARNARVON.

CORRESPONDENCE respecting a Reserved Bill of the Canadian Parliament, intituled "An Act to Regulate the Construction and Maintenance of Marine Electric Telegraphs."

Presented to both Houses of Parliament by Command of Her Majesty. February 1875.

LONDON:
PRINTED BY HARRISON AND SONS.

CORRESPONDENCE

RELATIVE TO THE

LAND TENURE QUESTION

IN

PRINCE EDWARD ISLAND.

Presented to both Houses of Parliament by Command of Her Majesty.
August 1875.

LONDON:
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1876.

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TABLE OF CONTENTS.

No. in Series.	From or to whom.	Date.	Subject.	Page
1	Lieutenant-Governor Robinson, K.C.M.G.	Apr. 17, 1871 (Rec. May 1)	Forwarding extracts from local papers on the subject of the "Tenants' Compensation Act of 1871," and copy of the Attorney-General's opinion upon it	1
2	Lieutenant-Governor Robinson, K.C.M.G.	June 10, 1871 (Rec. June 29)	Submitting authenticated copies of the "Tenants' Compensation Act of 1871," the views of those who support it, and the views of those who are opposed to it	5
3	Mr. Robert Bruce Stewart and others	June 10, 1871 (Rec. July 22)	Praying that Her Majesty may be advised to refuse her Royal Assent to the Act entitled "The Tenants' Compensation Act of 1871"	7
4	To Lieutenant-Governor Robinson, K.C.M.G.	Sept. 2, 1871	Stating that Her Majesty cannot be advised to assent to the "Tenants' Compensation Act of 1871"	10
5	To Lieutenant-Governor Robinson, K.C.M.G.	Sept. 5, 1871	Requesting him to inform Mr. R. B. Stewart and others that Her Majesty has not been advised to sanction "The Tenants' Compensation Act, 1871," in its present shape ..	11
6	Lieutenant-Governor Robinson, K.C.M.G.	Dec. 28, 1872 (Rec. Jan. 25, 1873)	Forwarding documents in connection with "The Tenants' Compensation Act, 1872," and stating that the objectionable clauses in the Act of 1871 have been expunged ..	12
7	To Lieutenant-Governor Robinson, K.C.M.G.	Apr. 22, 1873	Requesting to be furnished with further information respecting the "Tenants' Compensation Act of 1872" before tendering any advice to Her Majesty upon it	27
8	Sir G. Montgomery	(Rec. Apr. 25, 1873)	Protesting against an Act of the Colonial Legislature of Prince Edward Island in reference to landlords and tenants in the island ..	32
9	To Lieutenant-Governor Robinson, K.C.M.G.	Apr. 30, 1873	Requesting him to inform the persons who signed the Memorials prepared in Prince Edward Island against the Tenants' Compensation Act of 1872 that certain amendments will be made before Her Majesty can be advised on the subject	32
10	To the Earl of Dufferin, K.P., K.C.B.	Aug. 11, 1873	Requesting to be informed whether the Tenants' Compensation Act passed the Legislature of Prince Edward Island, and, if so, whether it passed before or after the admission of the island into the Dominion	33
11	The Earl of Dufferin, K.P., K.C.B.	Sept. 1, 1873	Tenants' compensation Act. Stating that this Act was passed by the Legislature of Prince Edward Island before its union with the Dominion of Canada	33
12	The Earl of Dufferin, K.P., K.C.B.	Nov. 25, 1873 (Rec. Dec. 10)	Transmitting authenticated copy of the recent Act of the Legislature of Prince Edward Island affecting the land tenure question, together with the Attorney-General's Report upon it	33
13	To the Earl of Dufferin, K.P., K.C.B.	Feb. 4, 1874	Stating that the "Tenants' Compensation Act, 1872," and an Act to alter and amend that Act, will be sanctioned by Her Majesty, and that the parties concerned have been so informed	34

No. in Series.	From or to whom.	Date.	Subject.	Page
14	Viscount Melville and others ..	(Rec. June 4, 1874)	Requesting that the Act for the compulsory sale of land in Prince Edward Island, now before the Legislative Assembly of that Colony, may not receive the assent of Her Majesty	38
15	To the Earl of Dufferin, K.P. K.C.B.	June 4, 1874	Inclosing copy of a Petition from proprietors of land in Prince Edward Island, protesting against an Act relating to the sale of land in that Colony	39
16	To the Earl of Dufferin, K.P., K.C.B.	June 10, 1874	Informing him of the names of certain persons who have added their signatures to the Petition against the Act passed by the Legislature of Prince Edward Island respecting the sale of land	40
17	Messrs. Frere and Co. ..	June 11, 1874	Lady Georgina Fane's objections to the "Prince Edward Island Land Purchase Act of 1874," and requesting to know what steps she should take to prevent its being passed ..	40
18	To Messrs. Frere and Co. ..	June 15, 1874	Stating that a copy of their letter of the 11th instant, on the subject of the "Prince Edward Island Land Purchase Bill of 1874," will be transmitted to the Earl of Dufferin	40
19	To the Earl of Dufferin, K.P., K.C.B.	June 15, 1874	Transmitting copy of Messrs. Frere's letter of the 11th instant, respecting Lady G. Fane's objections to the Land Purchase Act of 1875	41
20	Lady Georgina Fane.. ..	Oct. 17, 1874	Urging the importance of promulgating Her Majesty's disallowance of the Land Purchase Act of Prince Edward Island	41
21	To the Earl of Dufferin, K.P., K.C.B.	Nov. 2, 1874 (Secret)	Inclosing copy of letter from Lady Georgina Fane, on the subject of the Prince Edward Island Land Purchase Bill of 1874, and suggesting that the matter might be settled by a Commission of Inquiry with an Umpire.	42
22	To Lady Georgina Fane ..	Nov. 5, 1874	Stating that her letter of the 17th ultimo, respecting the Land Purchase Bill of 1874, has been referred to the Earl of Dufferin, and that the course adopted by him in the matter will be duly communicated to her ..	43
23	Lady Georgina Fane.. ..	Nov. 25, 1874	The Land Purchase Act of 1875. Appealing against the injustice of its provisions ..	43
24	F. C. Morgan, Esq., M.P. ..	June 2, 1875	Submitting memorial from Mr. S. T. Evans complaining of the provisions of the Act passed by the Legislature of Prince Edward Island for the compulsory sale of land ..	45
25	To the Earl of Dufferin, K.P., K.C.B.	June 26, 1875	Transmitting copy of Mr. F. C. Morgan's letter of the 2nd instant, inclosing Memorial from Mr. S. T. Evans, protesting against the provisions of the Land Purchase Act, 1875, of Prince Edward Island	46
26	To F. C. Morgan, Esq., M.P...	June 26, 1875	Informing him that Mr. Evans' Memorial has been sent to the Earl of Dufferin, with whom it rests to deal with the provisions of the Prince Edward Island Land Purchase Act of 1875	46
27	Robert Bruce Stewart, Esq. ..	Sept. 17, 1875 (Rec. Oct. 1)	Complaining of the injustice of the award in his case under the provisions of the Prince Edward Island Land Purchase Act of 1875.	46

No. in Series.	From or to whom.	Date.	Subject.	Page
28	To the Earl of Dufierin, K.P., K.C.B.	Oct. 6, 1875	Inclosing copy of a letter from Mr. Bruce Stewart, dated the 17th ultimo, complaining of the judgment of the Commissioners in the amount awarded him for his land in Prince Edward Island	50
29	The Earl of Dufferin, K.P., K.C.B.	Oct. 27, 1875 (Rec. Nov. 13)	Inclosing copy of a letter from Mr. J. F. Montgomery, of Charlotte Town, respecting the Prince Edward Island Land Purchase Commission	50
30	To the Earl of Dufferin, K.P., K.C.B.	Dec. 2, 1875	Requesting him to inform Mr. J. F. Montgomery that a decision of the Prince Edward Island Land Purchase Commission on any award is beyond the competence of the Secretary of State, and that it would serve no useful purpose to enter upon a discussion of the matter	52
31	To Lady Georgina Fane ..	Dec. 3, 1874	Stating that her letter of the 25th ultimo, protesting against the Land Purchase Act of Prince Edward Island, has been referred to the Earl of Dufferin	54
32	To the Earl of Dufferin, K.P., K.C.B.	Dec. 3, 1874	Transmitting copy of a letter from Lady Georgina Fane, and stating that it would be desirable to announce a decision as to the allowance or disallowance of the Land Purchase Act of Prince Edward Island as soon as possible	54
33	The Earl of Dufferin, K.P., K.C.B.	Dec. 29, 1874 (Rec. Jan. 15, 1875.)	Transmitting copy of an Order in Council advising him not to assent to the Prince Edward Island Land Purchase Act of 1874 .	54
34	The Earl of Dufferin, K.P., K.C.B.	Dec. 31, 1874 (Rec. Jan. 15 1875) (Secret)	Disallowance of the Prince Edward Island Land Purchase Act, 1874, and appointment of a Commission to decide disputes relating to proprietary rights in the Colony ..	58
35	To Messrs. Frere and Co. ..	Jan. 19, 1875	Acquainting them that the Earl of Dufferin has been advised by his Ministers not to assent to the Prince Edward Island Land Purchase Act of 1874	58
36	To Viscount Melville ..	Jan. 19, 1875	Requesting him to inform certain persons who signed a Memorial protesting against the Prince Edward Island Land Purchase Act of 1874, that Lord Dufferin has been advised not to assent to the Bill	59
37	To the Earl of Dufferin, K.P., K.C.B.	Jan. 27, 1876	Acknowleding receipt of his despatch of the 29th ultimo, stating that he had been advised not to assent to the Prince Edward Island Purchase Bill of 1874	59
38	To the Earl of Dufferin, K.P., K.C.B.	Jan. 27, 1875 (Secret)	Expressing satisfaction that the Canadian Government are likely to accede to the proposal to refer the Prince Edward Island Land Question to a Commission of Abitration	59
39	The Earl of Dufferin, K.P, K.C.B.	May 14, 1875	The "Act to alter and amend the Tenants Compensation Act, 1872"; "The Land Purchase Act of 1875," and the nomination of Mr. Childers to the Prince Edward Island Land Court of Arbitration.. ..	59
40	The Earl of Dufferin, K.P., K.C.B.	June 28, 1875	Acknowledging receipt of copy of letter from Mr. Morgan, inclosing a Memorial from Mr. Evans protesting against the Land Purchase Act of 1875, and a copy of the reply to Mr. Morgan	61

No. in Series.	From or to whom.	Date.	Subject.	Page
41	Officer Administering the Government	July 5, 1875	Reporting the appointment of Mr. Childers to act as Second Commissioner for carrying out the purposes of the Land Purchase Act of 1875	61
42	The Earl of Dufferin, K.P., K.C.B.	July 13, 1876	Stating that he has complied with the suggestions conveyed to him in Colonial Office letter of the 10th instant, in connection with the Land Purchase Act of Prince Edward Island	62
43	The Officer Administering the Government	July 12, 1875 (Rec. July 23)	Transmitting certified copy of the "Land Purchase Act of 1875," which he states has been sanctioned in accordance with the advice tendered to him by his Legislative Council ..	62
44	The Officer Administering the Government	July 13, 1875 (Rec. July 23)	Forwarding a Memorial from residents in Prince Edward Island, protesting against the allowance of the "Land Purchase Act of 1875"	62
45	To the Officer Administering the Government	Sept. 3, 1875	Acknowledging receipt of his despatch of the 12th July last, stating that the "Land Purchase Act of 1875" has been assented to ..	64
46	To the Officer Administering the Government	Sept. 3, 1875	Requesting him to inform certain residents in Prince Edward Island, who have forwarded a Petition to the Queen against the "Land Purchase Act of 1875," that, as that Act has been assented to, Her Majesty cannot be advised to interfere in the matter ..	64
47	Officer Administering the Government	Sept. 6, 1875	Request of Mr. Childers to be relieved of his duties as Second Commissioner to the Prince Edward Island Land Court of Arbitration ..	64
48	Officer Administering the Government	Sept. 9, 1875	Appointment of Mr. Lemuel Allan Wilmot to fill the office vacated by Mr. Childers ..	64
49	Officer Administering the Government	Sept. 16, 1875	Transmitting statement exhibiting the result of the proceedings of the Prince Edward Island Land Purchase Commission ..	65

Correspondence relative to the Land Tenure Question in Prince Edward Island.

No. 1.

Lieutenant-Governor Robinson to the Earl of Kimberley.—(*Received May* 1.)

My Lord, *Government House, April* 17, 1871.

IN the ninth paragraph of the speech with which I this day closed the session of the Legislature, copies of which I submitted in my despatch of this day's date, your Lordship will observe that reference is made to an Act which has just been passed here relating to the question of compensation to certain tenants whose leases will shortly expire. The following is the paragraph to which I refer:—

"I will lose no time in submitting to the Secretary of State the Act relating to the question of compensation to certain tenants whose leases will shortly expire, in order that Her Majesty's pleasure may be signified thereon. Earl Granville, while reserving to himself perfect freedom of decision with respect to prospective legislation, and while declining to express any general opinion or to give any fresh instructions to the Lieutenant-Governor as to the settlement of the difficult question referred to, was pleased to inform you, in reply to the joint Address to Her Majesty which was adopted during the session of 1870, that the Secretary of State would be prepared to give his best attention to any measure of a just and equitable nature embracing the principal provisions of the Irish Land Act of 1870; and you may rely upon it that Her Majesty's Government desire to meet the wishes of the people of this Colony in the matter, so far as justice to all parties concerned, and the rights of property, will permit."

2. I entertained grave doubts as to the propriety of assenting to this measure at all (although of course it bears a suspending clause) and hesitated for some time as to the course which I ought to adopt. I cannot but look upon the Act as an improper interference with the rights of property, and opposed to the general principles of the law of contracts. It goes far beyond the Irish Land Act, which was made the basis of the above Address to Her Majesty, and provides that the landlord must either make the outgoing tenant such compensation as may be awarded by arbitrators, or grant him a renewal of his lease for 999 years, practically forcing the landlord to part with his land almost in perpetuity, or to pay for being allowed to re-enter on the occupation of property which, according to the terms of the original contract ought, at the expiration of the lease, to return to his hands as a matter of right. I am far from thinking that tenants ought not to be fairly compensated for their improvements, but I consider that the alternative of a compulsory renewal for so long a period as 999 years, as fixed by this Act, is altogether unreasonable. There is a clause, moreover, which proposes to bring all leases and holdings that expire between the Lieutenant-Governor's assent and the Royal allowance under the operation of the Act, which I look upon as most objectionable, inasmuch as it is *ex post facto* in character, and will cause the whole law to take a retrospective effect, should the Act be confirmed by Her Majesty. However, after maturely considering the question in all its bearings, and after careful consultation with the Attorney-General (a copy of whose written advice I herein forward), I made up my mind to assent to the Act provisionally, and to leave the ultimate decision to those who are more competent than I to decide on so difficult a point. My chief objection to assenting to the Act was the dislike I felt to raise expectations in the

minds of the tenants with which in the end it might be deemed expedient to comply. I worded my speech so as to guard against this as far as possible, though at the same time I had to be cautious in what I said, not knowing what view your Lordship might be pleased to take of the matter.

3. I regret that time will not admit of transcripts of the Act being forwarded by to-morrow's mail. I will, however, forward them by the earliest possible opportunity, accompanied by full Reports upon the measure from the Attorney-General and myself; and, meanwhile, I take leave to annex one or two articles that have appeared upon the subject in the local press.

I have, &c.
(Signed) WILLIAM ROBINSON.

P.S.—From the inclosures in this despatch your Lordship will observe that the Tenants' Compensation Act was introduced as a Government measure, and therefore I fear that, without some explanation on my part, it may be supposed that I gave my countenance to, and am partly responsible for, its details. I beg leave to state that this is not the case, and that as I was not made acquainted with the details of the Bill until it was sent up for my consideration a few hours before the prorogation, and after having been finally passed by the other branches of the Legislature, I had no opportunity of expressing my objections to those features of the measure which will, I fear, be looked upon as obstacles in the way of its receiving the Royal Assent.

W. R.

Inclosure 1 in No. 1.

Sir, *Attorney-General's Office, April* 17, 1870.

IN accordance with your Honour's instructions, I have examined the Bill just passed by the House of Assembly and the Legislative Council, intituled, "The Tenants' Compensation Act, 1871," and have given careful consideration to the views expressed by your Honour on this important measure.

I am of opinion that the provisions of the Bill conflict with the general principles of the law of contracts and the rights of property; and, if it becomes law, will have a retrospective effect.

The clause which provides that all leases and holdings which shall expire between your Honour's assent (if given) and the Royal allowance, are to come under the operations of this Bill, is certainly objectionable, inasmuch as it is *ex post facto* in its character; this clause cannot, of course, during the interim between your Honour's assent and the Royal sanction, prevent any landlord, where a tenant's interest (which it is intended should be extended under this Act), has expired from ejecting such tenant; should, however, the landlord pursue such a course, and the Bill become law, such tenant's right would revive. I think the principle of the clause under consideration is one and the same with that which pervades the Bill generally. But as this Bill has a suspending clause, and was introduced and carried through the Legislature, in consequence of the intimation contained in Lord Granville's despatch of the 10th of June last, wherein he states that he shall be ready to give his best attention to any measure prepared in the Legislature with the object of relieving certain of the tenantry of this island, and was passed through both branches by an unanimous vote; and, considering all the circumstances connected with this measure, I advise your Honour to pass the same in the form that Bills with suspending clauses are usually assented to.

I have, &c.
(Signed) FREDERICK BRECKEN,
Attorney-General.

After conferring with the Attorney-General with respect to the subject-matter of the above opinion, I concur with him therein.

(Signed) DENNIS D. M. REDDIN,
Solicitor-General.

His Honour the Lieutenant-Governor,
&c. &c. &c.

Inclosure 2 in No. 1.

Extract from the "Islander" of April 7, 1871.

THE LEASEHOLD SYSTEM. EARL GRANVILLE'S DESPATCH.—It affords us great satisfaction to state that the Bill for the relief of such of the tenantry of this island as hold farms under short leases, introduced by the Premier (Mr. J. C. Pope) a few days since, has passed through all its stages in the Lower House without a single dissentient voice being raised against any of its provisions. It is now under consideration in the Upper Chamber, where, we have no doubt, it will be assented to with equal unanimity. We subjoin a copy of the despatch upon which this important Bill is founded, and have only to add the hope that a measure so urgently called for by the exigencies of the case, and passed with the full concurrence of the people's representatives here, will receive the sanction of the Imperial Government without a moment's hesitation. The principle on which the present measure is based is, we believe, a sound one, a principle, too, which has, on a much larger scale, been tested in Ireland with the most satisfactory results. We congratulate the Government of this island, as well as that portion of our people more directly interested in the Tenants' Compensation Bill now before our Legislature, on the fair prospects now before them.

Sir, *Downing Street, June 10, 1870.*

I have the honour to acknowledge the receipt of your despatch of the 3rd of May, inclosing a joint address to Her Majesty from the Legislative Council and House of Assembly of Prince Edward Island, praying that Her Majesty's representative in this Colony may be instructed to give his assent to a measure of a just and equitable nature, to be passed by the local Legislature, as regards certain of the tenantry of the island, embracing the principal provisions of the Bill lately introduced into the Imperial Parliament for the relief of Her Majesty's subjects, tenants of land in Ireland.

I request that you will inform the Legislative Council and House of Assembly that their Address has been laid before Her Majesty, but that I have not felt myself at liberty to advise Her Majesty to comply with the prayer of it.

You will, however, at the same time, assure them that, whilst I am not prepared to express any general opinion or to give any fresh instructions to the Lieutenant-Governor respecting the settlement of this difficult question, I shall be ready to give my best attention to any measure prepared in the Legislature with that object.

I have, &c.

(Signed) GRANVILLE.

The Officer Administering the Government of
Prince Edward Island.

Inclosure 3 in No. 1.

Extract from the "Island Argus" of April 18, 1871.

THE TENANTS' COMPENSATION ACT.—We are much amused to see in the "Patriot" an announcement that the Government had brought forward a Tenants' Compensation Bill because they were "forced" to do so by the opposition.

Remembering that it had been stated by a celebrated French statesman, that the use of language was to conceal ideas, we thought for a moment that there was something hidden beneath our contemporary's remarks, but it was only for a moment, for we felt what a bitter satire it would be to accuse the "Patriot" of having any just "ideas" upon a Government Act. There was a time when in its columns were to be found editorials possessing a certain sort of sharpness, which, at the best rendered them not unreadable. But that time has passed—it would seem for ever. The little scraps of articles, made up of partly overheard conversations, filled up by the evil surmisings of a not over scrupulous imagination, are all that are now left to remind us of how it was once conducted.

We have no hesitation in saying that the statement—that the opposition "forced" this measure upon the Government—is utterly and completely untrue. It would indeed be an hour of weakness on the part of the Government, when the present opposition could force it to undertake any measure which it was not inclined to adopt.

We say this without wishing to do any injustice to the members of the Opposition, and we feel that we are but expressing the general opinion of all who attended the debates during the present Session when we say that, if what, by courtesy, would be called their "ability" was united in one vigorous endeavour, it would be powerless to produce one single measure which could, with credit, be placed upon the Statute Book; and when we say this we have not forgotten the constitutional knowledge of Mr. Wightman, the splendid eloquence of Mr. McLean, or the moderation and judicial fairness of Mr. Benjamin Davis and W. S. McNeill. But lest it should be thought that, like the editors of the "Patriot," we are unwilling to comprehend the simple provisions of the Tenants' Compensation Bill, we proceed to lay before our readers a synopis of this important measure.

The Act provides that, when a tenant's lease shall be determined, either by the expiration of the time for which it was granted, or by the landlord giving a notice to quit, he shall, where his farm has been cleared by him or those through whom he claims, is entitled to receive from his landlord compensation for all his improvements, and this word "improvement" is directed by the Act to be interpreted in the widest and fullest extent, to mean buildings of all kinds, fences, &c., in fact, every result of the labour which has been expended on the farm.

Immediately the lease has expired, the tenant, without waiting for the landlord to commence proceedings against him, gives notice to the landlord that he will move at the next term of the Supreme Court to appoint three arbitrators to assess the amount of compensation, and upon his proving that he is entitled to compensation, the Court appoints three arbitrators who shall not be residents upon the same or the adjoining townships. These arbitrators, or two of them, are then to hear the evidence, the landlord having the right to be heard before them also, and to set off all arrears of rent that may be due to him. They then make their award in writing, which they are directed to send to the Supreme Court. If either the landlord or the tenant feels aggrieved by the conduct of the arbitrators, if there has been any undue influence used, or anything corrupt or improper in their conduct, an appeal is given to the Court and a discretionary power is given to deal with the case, either to dismiss the offending arbitrators and appoint new ones, or to refer it to them again. When the award has been filed and no appeal has been taken against it, the landlord has fourteen days to make up his mind whether he will pay the compensation awarded, or grant an extension of the lease. If he determines upon the latter course, he in his turn gives the tenant a notice that he is willing to give him a long lease at the same rental and requiring the tenant to produce his lease at the next term of the Supreme Court, and when the lease has been produced, the Judge orders a Memorandum to be endorsed upon it extending the number of years for which it was given, for 999 years. But it often happens that the tenant may hold his land under a lease not under seal. Being a layman, and not versed in the mysterious subtleties of the law, we are quite unable to inform our readers why a document is considered more solemn and binding from the mere fact of having a little bit of wax or a wafer fastened to it, but the wisdom of the law has decided that so it is, and so it is provided in the interest of the tenant that when a lease not under seal expires, or is determined by the landlord, instead of the extension of the old lease, a new one is to be granted under seal, and which is to be signed by the Prothonotary of the Court on behalf of the landlord. It may seem at first right that the proper person to grant the extension of a lease or to execute a new one, would be the landlord himself, but a moment's reflection will show the wisdom that suggested the directions of this portion of the Act, for the landlord might be an infant, or an idiot, or a lunatic, none of whom have power to execute a lease or any other document; or he might be an absentee, and, perhaps, unrepresented by an agent, or by one without the power of leasing, and there would be no means of compelling him to execute a new lease. And so the plan has been adopted of directing the Supreme Court to prepare and execute the lease, which is to be binding upon the landlord and every other person, who, at any subsequent time, may become entitled to receive the rents. Should a landlord commence proceedings to eject the tenant, the latter may apply to the Court for an order restraining him from proceeding further until he has paid him the compensation to which he is entitled. There is, however, no necessity to wait until this machinery has been put in motion, for the moment the tenant gives notice that he requires arbitrators to be appointed, the landlord may immediately give notice that he consents to an execution of the lease, and thus save further trouble and expense. This Act does not apply to ejectment brought for arrears, rent, nor for any other act by which the tenant has forfeited the lands.

Such are the leading provisions of this important measure, and our readers will

observe that all its enactments are framed with the express object of preserving for the tenant the land which, through his exertions, has been brought from a state of wilderness to one of cultivation. We think, that in nearly every instance its effect will be to procure the extended leases; for few, indeed we do not think any of the proprietors, would care to pay down the price of the tenants' improvements, and if this be so, it will prove a boon to many a man, who might otherwise by his landlord's caprice, be turned from his homestead at a very short notice. We think the Government in this instance acted wisely and well, and that the principle embodied in this Bill is a sound one. We know the deep feelings of affection which attaches a man to his home. We can imagine no sadder sight than to see a man turned from the farm where many a long day he has toiled to make it what it is. Poor and humble though it may be, it is still his home. We will undertake to say that there is never a tenant driven out from his homestead, there is never an emigrant from Ireland, that does not long with a strong, deep, passionate craving, still to remain, and, if it be God's will, to die upon the land endeared to him by so many tender associations, if he dare do so. For it was here he first knelt by his mother's knee, and in the churchyard near at hand he has wept by her grave. Sure, we are, that there is many a son of Erin who has transferred his allegiance to the United States who would have lived and died in the land he so passionately loved—there are many of our Island sons who would have been with us now if they could have secured to them the right to live and spend their last days upon the land endeared to them by so many ties. And, we again repeat, that the Government in this matter is entitled to no little praise. It has placed upon the Statute Book a law which proves that the sympathies of its members for the tenant is not merely from the lip outwards, but that in every way and by every means they endeavour to secure to him the privileges and blessings which he knows how to value and to prize so well.

No. 2.

Lieutenant-Governor Robinson to the Earl of Kimberley—(*Received June* 29.)

My Lord, *Government House, June* 10, 1871.

REFERRING to the ninth paragraph of the speech with which, on the 17th April last, I closed the Session of the Legislature of Prince Edward Island, I have now the honour to submit two authenticated transcripts of "The Tenants' Compensation Act, 1871,"* which have this day been handed to me by the Attorney-General for transmission to your Lordship.

2. The documents which I forward herewith would appear to render any detailed report upon this measure from myself unnecessary.

3. The first is a Minute drawn up by my Advisers, in which they state the reasons which induced them to introduce and carry the Bill through the Legislature, and advocate its confirmation by the Crown. The second is a memorial from those of the proprietors of land in this Colony who consider that their interests and legal rights are unfairly assailed by the Legislature, in which they urge their objections to the Act and advocate its rejection by the Crown. The Attorney-General's Report is also inclosed, but it contains merely a reference to the explanatory Minute prepared by my Advisers of whom he is one.

4. Your Lordship will thus receive simultaneously the Act itself, the views of those who support it, and the views of those who are opposed to it. I am not aware that anything of importance has been left unsaid on either side, or that I have it in my power to throw any additional light upon the question.

5. I ought, perhaps, to add that an Act of a somewhat similar nature (though intended to be general in its application and not confined, as this one is, to short leases only) was passed here sixteen years ago, but that Her Majesty was not advised to confirm it. It was sent home by Lieutenant-Governor Sir Dominic Daly, with his despatch of the 28th June, 1855, and the reasons which constrained the Secretary of State to decline to submit it for the Queen's Assent, were fully explained in Sir George Grey's despatch of the 17th November, 1855.

I have, &c.

(Signed) WILLIAM ROBINSON.

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* *Vide* Appendix 1.

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.

The Committee submit that it would be in direct conflict with the spirit of the above despatch, now to interfere with the Parliament of Canada in the exercise of its constitutional right to declare on what condition alien corporations should be permitted to make use of any portion of its territory.

Certified,
(Signed) W. A. HIMSWORTH,
Clerk Privy Council, Canada.

No. 3.

The Earl of Carnarvon to the Earl of Dufferin.

My Lord, *Downing Street, October* 29, 1874.

I HAVE the honour to acknowledge the receipt of your Lordship's despatch of the 2nd instant,* transmitting a copy of a Report of the Privy Council of the same date on the subject of the Marine Electric Telegraphs Bill of the Dominion Legislature, which has been reserved for the signification of Her Majesty's pleasure.

2. I have for some time past felt little doubt as to the advice which it would become my duty to tender to the Queen with reference to this Bill, but I have deferred any expression of opinion on the subject until the receipt of your promised despatch.

3. The Bill was reserved (as stated in the previous Report of the Committee of Council, dated June 4, 1874, which accompanied the Bill) because the measure was "one of some importance, and might possibly be considered to prejudice the interests and rights of property of Her Majesty's subjects not residing in Canada," and it is further stated that this was done merely in deference to the language of the Royal Instructions, as quoted above. The subject to which this Bill relates is, in my opinion, one of those with which the Dominion Legislature has been, under the 91st and 92nd sections of the Imperial "British North America Act, 1867," expressly empowered to deal. It seems to me to be clearly within the competency of the Dominion Government and Parliament to legislate without any interference on the part of the Government of this country upon a local question such as forms the subject-matter of the Bill, involving, as it does, no points in respect of which it would appear necessary that Imperial interests should be guarded, or the relations of the Dominion with other Colonial or foreign Governments controlled.

4. I am well aware, from the numerous representations which have been made to me on both sides, that the reserved Bill affects the pecuniary interests of many persons not residing in Canada, but Her Majesty's Government is not on that account called upon to review the decision arrived at by the Legislature of the Dominion. Looking to the large intercourse maintained between Canada and this country, and the extent to which British subjects residing out of Canada hold real and personal property, and are interested in joint-stock enterprise within the Dominion, it is obvious that, if the intervention of Her Majesty's Government were liable to be invoked whenever Canadian legislation on local questions affects, or is alleged to affect, the property of absent persons, the measure of self-government conceded to the Dominion might be reduced within very narrow limits.

5. It is to the Dominion Government and Legislature that persons concerned in the legislation of Canada on domestic subjects and its results must have recourse; and this Government cannot attempt to decide upon the details of such legislation without incurring the risk of those complications which are consequent upon a confusion of authority.

6. While, therefore, I entirely appreciate the action of your Ministers in reserving the Bill, I am of opinion that any further consideration of the subject should be given by that body whose province, as I have observed, it is to deal with such questions, and that I cannot properly assume the function of deciding between the conflicting views of those who have addressed me, whether in favour of, or against, the policy embodied in this measure. In order to enable this to be done I have decided to leave the present Bill in abeyance, and to tender no advice to Her Majesty respecting it.

I have, &c.
(Signed) CARNARVON.

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* No. 2.

them, shall settle the amount of compensation to which the tenant shall be entitled for improvements, whether the same be in the form of clearing and reducing the land into cultivation, or of buildings, or of works to increase the productive power of the soil by draining or other means; that if the landlord find himself aggrieved by the decision of such arbitrators, he may as an alternative grant to the tenant a new lease for the term of 999 years at the same rent as had been payable for the last year of the shorter lease just expired.

That, with respect to tenancies at will in this Colony, there are some still existing; on the estate of one of your Memorialists, inherited from his late father, there were at one time several tenants at will, but the tenants having for twenty years been enabled to evade the action of both Common and Statute Law, by means of open and violent resistance to the officers of the law or by other means, at length by possession for twenty years, without either having paid rent or been evicted for non-payment, the said tenants, by the peculiar administration or operation of the law in this Colony, had become practically the owners *de facto* of the land, to the great loss and detriment of the real owners *de jure*; the law which in practice had been powerless and useless on behalf of the landlord suddenly becoming abundantly powerful and strong on behalf of the dishonest tenant, on the ground of his twenty years' possession, in despite of law and justice. In cases of tenancies at will in Great Britain and Ireland it has been customary for the outgoing tenant to receive payment from the incoming tenant for certain permanent improvements on the land, where such had been made, but with respect to leasehold land, a lease for no longer a term than seven years, much more if it be for fourteen or twenty-one years, is well known to be abundantly long enough to secure to the tenant the full share of compensation justly due to him out of improvements infinitely more costly and valuable than are ever made by tenants in this Colony.

That there are in this Colony farms leased for a term of sixty-one years certain, on the longest of three lives. In almost every such instance the tenant at present holding under such lease is not the party who originally cleared the land, but one who has purchased the holding or possession from the previous tenant, or from parties who themselves had purchased from a previous tenant with a full knowledge of the duration and nature of the term. Your Memorialists respectfully submit that, in such a case, to add to the value of the tenants' interests, by arbitrarily and in the same proportion reducing the value of the landlords' interest, would neither be consistent with equity nor with reason, nor with the general principles of British law, and would be an act of the most extreme hardship and injustice to the proprietors of land in this Colony.

That tenants in this Colony are under much more favourable circumstances than in Great Britain or Ireland; the burden of rates and taxes falls comparatively very lightly upon them; the only really onerous and oppressive tax in this Colony being exclusively borne by the proprietors, namely, the land assessments upon their unproductive wilderness land, an avowedly penal tax upon them levied for the express purpose of wresting their property from them. The tenants have been released by Legislative enactment in the Currency Bill so-called from the payment of 7*s.* out of every sum of 1*l.* 7*s.* of rent, covenanted by their leases, the landlord being mulcted in that sum. The position of the proprietor holding under grants from the Crown to the original grantees, the present proprietors being either purchasers or inheritors, these latter are, as your Memorialists respectfully submit, much more worthy of the consideration of Her Majesty's Government than are those whom it is sought to benefit, at the proprietors' cost, by means of the present act for compensating tenants. It is a fact that the first year's produce frequently pays the entire labour or cost of chopping, piling, and burning the forest previously growing upon the land, to say nothing of the firewood sold at a good price. Draining is as yet almost unknown, and not usually requisite in this Colony, the soil being in general a light loam very easily worked, at little cost. That although many farms have increased in value since the commencement of the existing leases by the lapse of time, and the increased value of all property, nevertheless a farm cleared by the tenant of all its valuable timber and firewood, and impoverished by bad farming is frequently of much less value than it would be if it were at this present time in its natural condition of forest land.

Your Memorialists submit that the proprietors have a right to at least a part of whatever may be the increased value of farms on their estates at the termination of leases. The value of a farm has frequently been increased, not merely by the general rise in the value of land, caused by an increasing demand for farms, but also by the direct acts of the proprietor in opening roads, making bridges, assistance to schools and churches.

One of your Memorialists has, at his own cost, made more than 20 miles of roads upon his property, with many bridges thereon. To this must be added the remission of many years' arrears of rent by your Memorialists, which remission has enabled the tenants to improve their holdings by so much the more than they could otherwise have done.

That in some instances the proprietors of large tracts of township lands in this Colony have leased portions of them for 999 years, at a rent of 1*s.* per acre per annum, these lands being in general back land, remote from markets, and the proprietor having been in a manner compelled so to lease them, in order to avoid the before-mentioned and extremely heavy penal tax upon wilderness lands. This circumstance can have no weight with regard to such portions of their lands, as for various reasons they thought fit to lease for short periods, and more especially as such short leases, so-called in this Colony, have almost invariably allowed the tenant to enjoy the use of his holding for a certain time at a pepper-corn rent, and afterwards at a gradually increasing rent, such easy terms being accorded for the express purpose of enabling the tenant to make improvements, few or none of such leases being for less than twenty years, and many of them being for ninety-nine years. Your Memorialists submit that it would be absurd to suppose that the tenant cannot, even in the shortest time named, remunerate himself for any outlay he may have been at, in clearing the land, and erecting thereon such wooden buildings as are usual in this country. The fact that many holders of such leases have entered upon the land without a single pound of capital, and, from the cultivation of such land have amassed sufficient money to buy the fee-simple of their farms, is a sufficient proof of the absurdity referred to, and may be permitted to speak for itself. Even upon the principle of the new enactment as to tenancy in Ireland, all that a tenant could obtain would be a remuneration for such improvements as the termination of his tenancy would prevent him from deriving any benefit from, to say that this would in every case in this Colony require the extension of the lease, for a further period of 999 years, is, as your Memorialists submit, an assumption by the framers of this "Act for Compensating Tenants," which they would find very difficult to prove or to defend.

That there are many instances wherein testators, assuming that upon the expiration of leases which they had granted, they would be entitled to deal with their property as by law they are entitled to, have appointed such property to their children, to be sold for their support and education; that the Act in question makes no provision for such cases, but, by enabling the Prothonotary of the Supreme Court to renew the lease at a very low rental, for 999 years, it has the effect, in the cases alluded to, of leaving the objects of the testators' bounty or provision penniless and destitute.

That the several sections of the Act referred to are open to very great and grave objections on the part of proprietors of lands. As regards the Arbitrators to be appointed by the Supreme Court, such Arbitrators must in this Colony be almost inevitably persons who are tenants, or connected with tenants, and consequently have an interest or bias identical with that of one of the parties between whom they shall be called upon to arbitrate.

That while the Royal Instructions with regard to all Colonial Acts affecting real property have been so far attended to in this case, that a suspending clause, until Her Majesty's pleasure be known, is affixed to the "Act for Compensating Tenants," yet that the 22nd section of the said Act renders the Suspending Clause of no benefit to the proprietors, in so far that, in the event of the Royal Assent being given to it, the action of this Bill will be retrospective, and your Memorialists will therefore be liable to the most vexatious and injurious suits and actions for damages, on the retrospective or *ex post facto* ground of their having taken measures which by common or statute law they are at this time fully permitted and entitled to take; that this contingency is a most peculiar and, as your Memorialists believe, unprecedented act of legislation, fraught with hardship and injustice to them, in so far as it deters them from exercising in the interim legal rights which they might otherwise wish to exercise.

That, in the year 1855, a Bill, so far similar as to be practically identical with the present "Act for Compensating Tenants," and containing at least one clause even verbally identical with the present Act, was sent home for Her Majesty's approval, and that the Royal Assent was refused to it, on the ground, as Sir George Grey stated in his despatch to the Lieutenant-Governor of 17th November, 1855, "Because its plain and direct tendency is to transfer property in land from the owner to the tenant," and because Her Majesty's Government would not "advise the Crown to assent to any measure inflicting a manifest wrong on any of her subjects."

Your Memorialists submit that no circumstances have arisen to make their case at present otherwise than Sir George Grey at that time saw it to be; and that the

absolute transfer of the land from the owner to the tenant would be but a very short step in advance upon the arbitrary and compulsory alienation of land for 999 years, at an almost nominal rent.

Your Memorialists most respectfully pray that, for the reasons above set forth, Her Majesty may be advised to refuse her Royal Assent to the Act entitled "The Tenants' Compensation Act, 1871."

And, as in duty bound, your Memorialists will ever pray, &c.

(Signed) ROBERT BRUCE STEWART, Proprietor of Lots 7, 10, 12, 30, and parts of Lots 27, 46, and 47.
JAMES F. MONTGOMERY, Proprietor of part of Lot 34.
JAMES F. MONTGOMERY, (for John Archibald Macdonald), Proprietor of parts of Lots 35 and 36.
HENRY C. DOUSE, Co-Proprietor of Lot 31 (for himself and James P. Douse).
JOHN DOUSE, Co-Proprietor of Lot 30.
JOHN HODGES WINSLOE, Proprietor of parts of Lots 33 and 24.
ALFRED WINSLOE.
JOHN A. McDONELL, Proprietor of portion of Lot 35.
WM. CUNDALL, Proprietor of part of Township No. 20.
GEORGINA FANE.
C. A. SULIVAN.

Charlotte Town, Prince Edward Island.
June 10, 1871.

No. 4.

The Earl of Kimberley to Lieutenant-Governor Robinson.

Sir, *Downing Street, September* 2, 1871.

I HAVE to acknowledge your despatch of the 10th June,* transmitting an authenticated transcript of "The Tenants' Compensation Act, 1871," together with copies of a Minute of your Executive Council recommending the same, and of a Memorial from proprietors of land against the Act.

I have given most careful consideration to this important measure, with an anxious desire that an Act passed unanimously by both Houses of the Legislature should not be prevented from coming into operation, but I regret that I have felt it my duty not to advise Her Majesty to assent to it.

The Act is in some respects an improvement upon the Act of 1855, from which the assent of the Crown was withheld, but some of the provisions are still open to the objections which were expressed in Sir George Grey's despatch of November 18, 1855, and which need not be here repeated; while other provisions seem to me to require further consideration and amendment.

In the first place, the provision by which the only alternative left to the landlord, if he does not pay the compensation awarded to the tenant, is to grant a lease of 999 years at the same rent as the last year's rent of the expired or terminated lease, appears to me to be open to the gravest objection. It would, in fact, compel the landlord to transfer the ownership of the land to the tenant in every case where he might be unable or unwilling to purchase the tenant's improvements.

Under section 21 of the Irish Land Act (33 and 34 Vict., c. 46) a tenant who may be decided by the Court to be entitled to compensation by the landlord cannot be compelled by process of law to quit his holding until the amount of compensation due to him has been paid or deposited; but, on the other hand, under that Act the landlord retains intact his right to re-enter upon the land at any time, subject to the condition of compensating the tenant for his improvements.

Secondly. It is not quite clear from the wording of the 1st and 2nd sections of the Colonial Act whether a tenant who does not quit at the expiration of a lease, but continues as tenant from year to year can, before the determination of such yearly tenancy, claim compensation for improvements made up to the time of the expiration of the lease. If this was contemplated, the Act would seem to go further than the Irish Act, which only entitles a tenant to claim "on quitting his holding."

To remove any doubt upon this point, I would suggest that these sections should

* No. 2.

be amended, so as to limit the operation of the Act to cases where the tenant quits his holding, either upon the expiration of a lease or upon legal determination of his tenancy, by any act of himself or his landlord, subject to the exception which is made by section 16 of the Colonial Act as to forfeiture of the tenancy for non-payment of rent. The tenant should, of course, be secured in possession of the land until he has received the compensation awarded to him as is provided by section 9 of the Colonial Act; but I would suggest that the landlord should be given the option, as in section 21 of the Irish Act, of depositing the amount.

Thirdly. I am of opinion that some limit of time should be fixed, as in the Irish Act (sub-section 1 of section 4), within which improvements, other than permanent buildings and reclamation of waste land, for which compensation can be claimed, must have been made.

Fourthly. It appears to me that there is much force in the objection raised by the landowners to the compulsory arbitration; and, looking to the great difficulty there may be in appointing arbitrators whose impartiality shall be beyond all question, it would be desirable that the Court, as in Ireland, should fix the amount of compensation as well as the title of the tenant to the claim. Power might be given to the Court in its discretion to call in assessors, and provision should be made, as in the Irish Act (section 25), for arbitration by consent of both parties. It is worthy of consideration whether claims should not be tried in the first instance by a Judge of the Supreme Court, from whose decision an appeal should lie to the full Court, as in section 24 of the Irish Act.

Fifthly. In lieu of the proposed mode of determining the value of the improvements, and the amount to be paid for them, a mode which was strongly objected to in the above-mentioned despatch of Sir George Grey, I would recommend that the rules laid down in the Irish Act should be followed, and upon this point I would particularly refer you to sections 4 and 5, and the last part of section 70 of that Act.

Lastly. I am of opinion that the Court or Arbitrators should have full power to adjourn the proceedings from time to time, in order to give an opportunity to absent proprietors to act upon notices served by tenants and to rebut, if necessary, tenants' claims.

Many of the provisions of the Irish Act are inapplicable to Prince Edward Island, as, for instance, the first three sections of Part I, the whole of Parts II, III, Part V (except part of section 70), and a portion of Part IV; but those sections which relate to improvements seem to me to afford the basis upon which, with the necessary alterations, a measure might be framed with advantage to the Colony, and to which I might be able to advise Her Majesty to give her assent.

Her Majesty's Government much regret that they have been hitherto compelled to object to the measures which have been passed by the Legislature of Prince Edward Island with a view to settle this difficult and long-standing question. They fully admit that the condition of the island, the peculiar circumstances through which the present state of agricultural tenures, so unsuited to a Colony, has arisen, and the injury caused to the Colony by the grants of land in 1767, are valid reasons for legislation on this subject, and they would rejoice if the suggestions which I have made in this despatch should be acceptable to your advisers and to the Colonial Legislature, and should furnish the means of passing an Act which would give reasonable satisfaction to the claims of the tenants without depriving the landlords of their just rights.

I have, &c.
(Signed) KIMBERLEY.

No. 5.

The Earl of Kimberley to Lieutenant-Governor Robinson.

Sir, *Downing Street, September* 5, 1871.

WITH reference to my despatch of the 2nd instant,* respecting "The Tenants' Compensation Act, 1871," I have to request that you will inform the proprietors of land in Prince Edward Island who signed the Memorial against this Act, forwarded in your despatch of the 10th of June,† that Her Majesty has not been advised to sanction the Bill in its present shape.

I have, &c.
(Signed) KIMBERLEY.

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* No. 4.

† No. 2.

No. 6.

Lieutenant-Governor Robinson to the Earl of Kimberley.—(*Received January* 25, 1873.)

My Lord, *Government House, December* 28, 1872.

WITH my despatch of this date, your Lordship will receive authenticated transcripts of "The Tenants' Compensation Act, 1872," I have now the honour to forward the following documents in connection therewith:—

(1.) Memorial of R. B. Stewart, Esq., and other proprietors, praying that Her Majesty may be advised to refuse her Royal Assent to the Act.

(2.) Memorial to the same effect, from J. A. Macdonald, Esq., of Glenaladale.

(3.) Minute of Council, dated 28th December, 1872, with inclosures, offering observations on Memorial of proprietors, and advocating confirmation of Act by the Crown.

(4.) Minute of Council, dated 28th December, 1872, commenting on Memorial of J. A. Macdonald, Esq.

(5.) Letter from Leader of Government to Lieutenant-Governor, dated 26th December, 1872, with observations on the general question of the right of tenants to the improvements made by them on their farms.

2. The views of those who are opposed to this Act, as well as the views of those who are in favour of it, are so fully and clearly set forth in the documents which I inclose, that it only remains for me to draw attention to the Report of the Solicitor-General, by whom the Bill was drafted, wherein it is stated that the objectionable clauses and provisions of the Act of 1871, which your Lordship was unable to submit for Her Majesty's information, have now been entirely omitted, and that every provision of the present Act (excepting those regulating the practice to be adopted in carrying out the Act), is either a transcript of a similar provision in the Irish Act, of some unobjectionable clause of the Act of 1871, or an embodiment of some suggestion contained in your Lordship's despatch of the 2nd of September, 1871.*

I have, &c.

(Signed) WILLIAM ROBINSON.

Inclosure 1 in No. 6.

To the Right Honourable the Earl of Kimberley, Her Majesty's Principal Secretary of State for the Colonies.

The Memorial and Petition of the Undersigned Proprietors of Township Lands in Prince Edward Island.

Most respectfully showeth,

THAT a certain enactment by the local Legislature of this Colony, passed during its recent Session, entitled "The Tenants' Compensation Act, 1872," enacts that—

"Any tenant occupying lands under a lease or agreement, verbal or in writing, or any Memorandum or agreement whereby any term or estate is reserved or will revert to the landlord, may, on the expiration of his lease or upon the legal determination of his tenancy by any act of himself or his landlord, claim compensation to be paid by the landlord in respect of all improvements on such lands made by himself or his predecessors in title."

That said enactment further enacts that

"No tenant shall be deprived of any such compensation under the provisions of this Act, by reason of the fact of his being in arrears of rent."

That on referring to your Lordship's despatch to his Honour the Lieutenant-Governor, dated 2nd September, 1871, your Memorialists observed that your Lordship was pleased to write as follows:—

"I would suggest that those sections should be amended, so as to limit the operation of the Act to cases where the tenant quits his holding either upon the expiration of a lease, or upon legal determination of his tenancy by an act of himself, or his landlord, subject to the exception which is made by section 16 of the Colonial Act as to forfeiture of the tenancy for non-payment of rent."

That the above-named despatch of your Lordship being recognized as the guide and ground upon which the Act of 1872 was to be framed, and that, as your Memoria-

* No. 4.

lists submit, your Lordship either suggested or understood that there was to be an exception to compensation where the tenancy should be forfeited for non-payment of rent. Your Memorialists submit that the Act against which they petition is not in accordance with your Lordship's suggestions or understanding on this point.

That while by the present Act your Memorialists are ostensibly relieved from the necessity or compulsion of arbitration, without the mutual consent of both landlord and tenant, yet that the power proposed to be given to the Supreme Court of Judicature, to appoint assessors, would, in practice, be very much the same thing as compulsory arbitration.

That by the Act against which your Memorialists petition, it appears to your Memorialists that every axiom and rule, constitutional or prescriptive of the ancient common law and statute law of Great Britain, with regard to real property and its rights, however long established by law, usage, custom, and justice, are at once to be swept away and annihilated; and that the Supreme Court of Judicature of this island is to possess a power of jurisdiction, not only equal to that of the Court of Chancery, but practically such as was once possessed by the Star Chamber.

That said Act enacts that—

"Any contract made by a tenant by virtue of which he is deprived of his right to make any claim which he would otherwise be entitled to make under this Act, shall, so far as relates to said clause, be void, both at law and in equity, subject to the provisions herein contained as to any improvements made in pursuance of a contract entered into for valuable consideration therefor."

That your Memorialists submit that the preceding enactment is a piece of the most extraordinary and unjust class legislation that ever was perpetrated, or attempted in any country or at any period.

That although there is a suspending clause to said Act, yet that a previous clause, the 29th of said Act, completely abrogates and does away with the suspending clause, by enacting that, immediately upon the Act receiving the assent of the Lieutenant-Governor, any tenant who may claim compensation under the said Act, "shall in all respects be deemed and taken to be within the provisions of this Act, in as full and complete and beneficial a manner as if such proceedings had been commenced after Her Majesty's assent had been published as aforesaid." That your Memorialists respectfully and earnestly protest against the injustice of their being thus practically deprived of that appeal to Her Majesty in Council, which it is the very principle of a suspending clause to secure for them; and that although in "The Tenants' Compensation Act, 1871," which Her Majesty was graciously pleased to disallow, the 22nd clause is to a certain extent similar to the 29th clause of the present Act, yet that there is a remarkable difference between these two clauses, to which they respectfully beg leave to call your Lordship's attention upon a comparison of the two.

That there are many instances wherein testators, assuming that, upon the expiration of leases of their property, they would be entitled to deal with it, as by law they are and always have been entitled to deal with it, have appointed such property to their children for their support and education: That the Act, against which your Memorialists now petition, would, in its results, have the effect, in all human probability, of leaving the objects of the testator's bounty or provision penniless and destitute.

That your Memorialists respectfully submit that the position of the landlord and tenant in this Colony is very different from what it is in Ireland; the area of land to be let on lease in this Colony having always been greatly in excess of the population, and there being a very oppressive penal tax on land in a wilderness state, these causes have enabled the tenant to make his own terms with his landlord. Witness the extreme length of most of the leases, by far the greater part of them being for 999 years, some for 99 years, and only a very small proportion of them for a less term, as may be proved by reference to the census; add to this the extreme lowness of the rent, the greater part of the land being let at 9*d.* sterling per acre.

The Irish Land Act has been allowed, on all hands, to be a very extreme measure, interfering as it does with long established rights and usages, and only attempted to be justified by those who advocated it, as being called for by very peculiar circumstances, such as that leases of any kind were not general, and that the population being in excess of the area to be occupied, caused the tenantry to outbid one another in their offers of rent, &c.

That your Memorialists respectfully submit that, whereas all the clauses in the Irish Act in favour of the tenant have been reproduced in the Colonial Act, many of those intended to protect the interest of the landlord have been left out; as for instance, the clause (sub-section 3, section 3, Irish Act) which makes void any contract between

landlord and tenant, debarring the tenant from compensation, is inserted (section 5, Colonial Act) the limitation of the action of said clause to the period of twenty years, is left out.

The clause (section 4, Irish Act) allowing compensation in certain cases is virtually enacted section 1, Colonial Act; while the clauses excepting certain tenancies from the benefits (sub-sections 3 and 4, section 4, Irish Act) are left out.

Section 6, Colonial Act, reproduces section 5 of the Irish Act without any exception as to Ulster right or any similar usage which prevails in this Colony and without the exceptions contained in sub-sections 2 and 5 of said section 5 in Irish Act. Sections 7 and 9 (Irish Act) are altogether omitted in the Colonial Act, as also are 10 and 11.

Section 12, limiting the action of sub-section 3, section 3 (Irish Act), is also omitted, and also section 18 (Irish Act), the latter part of which authorizes the Court, where the landlord has been and is willing to permit the tenant to continue in occupation, to disallow any compensation to the tenant.

The omission of any permission for appeal from the decision of one Judge to that of the whole Bench, similar to that contained in section 24 (Irish Act), and as suggested in your Lordship's despatch, would likewise be a great and grievous hardship here, as the agrarian party in this Colony elect the local Government, and the said local Government appoint the Judges.

Your Memorialists would further respectfully submit that all short leases in this Colony were given with the express intention that either the whole or a large portion of the farm should be reclaimed from forest land to a state of cultivation by the tenant, and, with all buildings, &c., be given up to the landlord at the expiration of the term. Such leases invariably contain a clause binding the tenant to clear so many acres in so many years, and the rent reserved is made little more than nominal, with the express intention of enabling the tenant to do so. Had the land been in a state of cultivation at the time it was let, a far higher rent could have been obtained for it.

All forest land in this Colony has now for many years been, and is at present being, let on lease for 999 years, or rather it is alienated, subject to a rent, which from the commencement of the term at two-thirds of 1*d.* sterling per acre, gradually rises to the very moderate rent of 9*d.* sterling per acre, and in a few instances of 1*s.* or 2*s.* sterling per acre. This latter rent does not by any means cover the increased value of the land caused by cultivation, and the reason it is not charged in the first instance is principally because the tenant, on entering the land, has no capital to start with, as men with capital do not generally take up forest land, and the owner is, by penal taxation, compelled to let his land to whoever will take it, however ineligible or undesirable as a tenant.

In the case of the termination of a lease for 999 years by the legal action of the landlord in recovery of his rent, or for the non-fulfilment of any other condition on the part of the tenant, to compel the landlord in every case to purchase and pay for the improvements made by the tenant, which improvements are, in many cases, worth more than the landlord's interest in the freehold, is certainly placing the landlord in a worse position than that in which any other creditor stands to a debtor. A mortgagee has the power of selling the property of a defaulting mortgagor, and, after satisfying the debt, of handing over the balance to him; and this, although the agreement between them was only intended to last for a short term, whereas the landlord is bound, on receipt of his rent, that is, his interest, to leave the tenant in possession of the land for 999 years.

To compel a tenant to purchase his landlord's interest at any time the landlord pleased, would not be a greater hardship or piece of injustice than that the tenant should be enabled, by withholding the payment of rent, to force his landlord to take legal steps to recover it, thus compelling the landlord to purchase and pay for his, the tenant's, improvements at any time he, the tenant, may choose.

That the Landlord and Tenant Act for Ireland was passed in order to give the tenant fixity of tenure. The tenants in this Colony, with leases for 999 years, have fixity of tenure already; and should the Tenant Compensation Act for this Colony be passed, it would enable a tenant here to terminate his very lengthy agreement with his landlord, without any possibility of loss to himself; while the landlord, unless able and willing to purchase the improvement of any tenant who may get into difficulties, or be seized with a desire to change his location (a very common thing in America), will be obliged to wait for his rent till the tenant shall choose to pay it, or, at least, the landlord must refrain from any proceedings which may possibly end in disturbing the defaulting tenant.

That with respect to the existence of any custom in this island similar to the

Ulster Right custom, your Memorialists respectfully state, that leases of land in this Colony, although they contain in general a clause restraining a tenant from selling his interest in the land without permission from his landlord, are, nevertheless, sold, bought, and sold again, mortgaged, and pledged for money, although considerable arrears of rent be due upon them at the time; the laws regulating distraint in this island being so unfavourable to the landlord, that he seldom resorts to it; and being excluded from the Small Debt Courts, by a special enactment for that purpose, his only remedy is a tedious and costly remedy in the Supreme Court of Judicature.

That your Memorialists might submit to your Lordship's consideration, and sense of justice, many facts which they have not touched upon; such as the amount and extent of road-making, bridge-building, and other works of use and convenience, which some of your Memorialists have had performed at their own expense, upon their township lands, for the benefit of their tenants, much more than for their own; the tenant reaping the benefit of such works, without being called upon for any compensation therefor.

Your Memorialists might also most justly complain of the evidence of interested parties, which they have reason to fear, would be brought to bear upon their interests, if the Act against which they petition were to become the law of the land.

Your Memorialists most respectfully pray that, for the reasons above set forth, Her Majesty may be advised to refuse her Royal Assent to the Act entitled, "The Tenant Compensation Act, 1872."

And your Memorialists, as in duty bound, will ever pray, &c.

(Signed) ROBERT BRUCE STEWART, Proprietor of Townships Nos. 7, 10, 12, 30, and parts of Townships Nos. 27, 46, and 47.

LORD HENRY VISCOUNT MELVILLE, Proprietor of part of Townships Nos. 29 and 53, by his Agent, J. R. Bourke.

MESSRS. THOMPSON, Proprietors of part of Township No. 26, by their Agent, J. R. Bourke.

J. R. BOURKE, Proprietor of part of Townships Nos. 49, 50, and 37.

COL. BENTINCK HARRY CUMBERLAND and MARGURET WILLIAM SEYEN CUMBERLAND, Proprietors of part of Township No. 65, by Edward J. Hodgson, their Attorney.

MARIA MATILDE FANNING, Proprietor of Townships Nos. 50 and 67, by Edward J. Hodgson.

JAMES P. DOUSE, Proprietor of parts of Townships Nos. 31 and 40.

JOHN DOUSE, Proprietor of part of Township No. 31.

ALFRED WINSLOE, Proprietor of part of Townships Nos. 24 and 33.

HENRY C. DOUSE, Proprietor of part of Township No. 31.

FREDK. A. DOUSE, Proprietor of part of Township No. 31.

WM. E. DOUSE, Proprietor of part of Township No. 31.

JOHN H. WINSLOE, Proprietor of part of Township No. 24.

JOHN ARCHIBALD MacDONALD, Proprietor of parts of Townships Nos. 35 and 36.

JOHN A. MacDONELL, Proprietor of part of Township No. 35.

CHARLOTTE A. SULIVAN (per her Attorney, G. W. De Blois), Proprietor of Townships Nos. 9, 16, 22, and 61.

WM. CUNDELL, Proprietor of part of Township No. 20.

Charlotte Town, Prince Edward Island, 1872.

Inclosure 2 in No. 6.

Extract from Minutes of the Executive Council of Prince Edward Island.

Council Chamber, December 28, 1872.

AT a meeting of a Committee of the Executive Council :—

Present :

Honourable Mr. Haythorne.
" " Attorney-General.
" " Sinclair.
" " Muirhead.
" " Hogan.
" " Laird.

The following Minute or Address to his Honour the Lieutenant-Governor was approved :—

To his Honour William Cleaver Francis Robinson, Esq., Lieutenant-Governor, &c.,

Sir,

The Committee of the Executive Council having considered the Memorial of certain proprietors of township lands, addressed to the Earl of Kimberley, praying his Lordship not to advise Her Majesty to give her Royal Assent to "The Tenants' Compensation Bill, 1872," desire to offer the following observations thereon :—

1. They take leave to express the satisfaction they have experienced as members of the Local Legislature, on observing that the leading principles of the Irish Landlord and Tenant Act are nearly identical with those of the Colonial laws, passed for the relief of tenants in this island, familiarly known as the "Land Purchase Bill," one Act to assist tenants in the purchase of their farms, and the Tenants' Compensation Bills of 1854, 1871, and 1872; which last three measures, however, have not yet received the Royal Assent.

2. The Undersigned disclaim all intention to despoil or defraud proprietors of any of their just rights; the tendency of legislation with reference to the land tenures for many years past, as well as of the memorials on the same subject, which have been addressed by the Executive Council of the Colony to his Lordship's predecessors, proves beyond doubt that the object of the Legislature has been to purchase the proprietary estates, whenever it was practicable to do so, at prices which would enable the farms to be resold without ultimate loss to the Treasury.

3. The fact must not be lost sight of, if it is desired to arrive at a true appreciation of the tenants' case, that the land, which forms the chief attraction to draw the emigrant from his native shore, and the possession of which to him is an object of the first necessity, was held in strict monopoly by the proprietors until a comparatively recent period. The alternatives, therefore, which presented themselves to the immigrant on landing in this island were, either to accept the proprietor's terms, or seek a home elsewhere; he generally chose the former, without any clear perception of the consequences of the steps he was taking; buoyant with youth and hope, he commenced the arduous career of a settler, without any better security than a lease affords. In other parts of America it has been deemed politic to give the additional security of a homestead law to those who engage in the lifelong labour of clearing the forests; here in Prince Edward Island, in the hundreth year of her existence as a Colony, the Legislature and the Executive are found contending against proprietors for a Tenants' Compensation Bill.

4. It would be easy to quote numerous instances in which tenants have been compelled to quit their holdings and abandon their improvements without any compensation, but the Undersigned consider that a general statement, referring to a wider area and supported by unimpeachable documentary evidence, is better calculated to exhibit the tendency and results of the leasehold system, in the absence of that security which it is the object of the measure under review to afford. The MacDonald, better known as the Tracadie Estates, comprising lands on Townships Nos. 35 and 36,

were subdivided about the year 1865, after a period of much uncertainty as to ownership, during which heavy arrears accumulated, some of the claimants notifying the tenants by public advertisements not to pay the rent to the others. A few years later, the owner of part of this property, Miss Margaret Macdonald, offered her lands for sale to the Government, as provided for by the Act 16 Vict., cap 18. The plans and rent-rolls were submitted to the Executive, and a Commission appointed to inspect the property, and report as to its condition and value. That Report being a public document, the result of personal inspection and inquiry, the Undersigned consider, affords a reliable picture of the effects of the leasehold system, as it exists on the Tracadie Estate, and shows clearly the necessity of affording the tenants some better security than a short lease affords. A copy of the Report referred to, with accompanying documents, is hereto appended, and the attention of the Secretary of State is respectfully but earnestly directed to them.

4. The proprietors, however, affirm, in their memorial, that short leases are not numerous, and that to leases for 999 years no objection can be taken on the ground of insecurity of tenure.

The Undersigned propose to avail themselves of another public document, with a view to illustrate the condition of an estate recently purchased by the Government, and where long leases prevailed. The Todd Estate, on Township No. 19, comprised about 12,175 acres, which, as regards situation and quality of soil, could not be surpassed. The land is all occupied, the leases were for 999 years, and the rent 9*d.* sterling per acre. Mr. Todd, the former proprietor, resided in Canada; his agent in the island was the Honourable J. C. Pope, to whom the property was sold about the year 1868. The price was stated to be 9*s.* 2*d.* sterling per acre, including the arrears of rent, which amounted to nearly 3,366*l.* sterling. Some ineffectual attempts were made by the Government of the day to purchase the estate from Mr. Pope. A year or two later, however, it was resold by him to Mr. E. J. Hodgson, a distinguished member of the Prince Edward Island bar. This gentleman, who had acted as agent to Mr. Pope during the short time the latter was proprietor, used such energetic measures for the recovery of rent and arrears, that the Government, in the interests of the tenants, felt it necessary to step in and purchase the property from Mr. Hodgson, paying him, however, an advance of 1 dollar per acre on the price paid to Mr. Todd, and about the same amount in excess of the highest rate which had yet been paid by this Government for a proprietor's estate. On the conclusion of the sale, the books of account, the plans, and the note-of-hand books of the estate were surrendered to the Commissioner of Crown Lands. An abstract of the accounts shows that the arrears, which on the 1st September, 1868, were nearly 3,366*l.* sterling, by May 1, 1870, had been reduced to 2,237*l.* sterling. The note of hand book is a most suggestive document, which it is intended to transmit herewith; it reveals a state of indebtedness which is quite inconsistent with independence, displays the necessity which exists for remedial measures (the condition of Lot 19 in this respect being by no means singular), and shows how little foundation there is for the complaint of the proprietors as to the difficulty they experience in finding a cheap and ready means of recovering their rents. Mr. Hodgson could recover the amount of any note of hand under 20*l.* currency, in the Small Debt Courts, for the recovery of notes above that sum he would have to institute proceedings in the Supreme Court, but it is presumed there could be no defence to any such action.

6. Township No. 31, the owners of which append their names to the memorial against the Compensation Bill, 1872, affords another example where the proprietor's agent has become the purchaser of the property he once supervised. The Earl of Selkirk was the proprietor of a fine estate on this township. Mr. William Douse was his Lordship's agent, and it is recorded, in the Registry of Deeds, that the area conveyed by Lord Selkirk to Mr. Douse was 14,554 acres, and the consideration money 3,500*l.* sterling, being a trifle below 5*s.* sterling per acre. No means exist of ascertaining what amount of arrears were due by the tenants at the date of Mr. Douse's purchase, but it is a well known fact that lands were taken from tenants for the amount owing, and that tenants at will were allowed the right of purchase at 33*s.* 4*d.* per acre,* and that prime blocks of forest land were reserved and held at 2*l.* sterling per acre.†

It is not possible to enter at length into the history of this estate since it passed from the Earl of Selkirk to Mr. Douse, but the Secretary of State, observing the scale of that gentleman's profits, will perhaps consider them sufficient without the additions which are perhaps contemplated on the falling in of the short leases a few years hence.

* $666\frac{33}{100}$ per cent. † 800 per cent.

It is the duty of the Undersigned, however, as guardians of the people's interests, to press on the Secretary of State's attention the dangerous position of the many deeply indebted tenants of this Colony. It is not denied that not a few of the proprietors are persons of generous dispositions, and, being in affluent circumstances, are not disposed to press their claims against their tenants; but no one can answer for the forbearance of their successors, or whether the note-of-hand system will be adopted, as in Lot 19, or whether the methods adopted by Mr. Douse on Lot 31 will be preferred.

The security demanded by Her Majesty's subjects, the short leaseholders, and the deeply indebted tenantry of this Colony, is that of a law establishing their rights to the improvements on their farms. They will then be in a position to oppose effectual resistance to demands for notes of hand, and have less reason to dread the termination of short leases, if the law compels the proprietor to pay for their improvements before he can eject them. Had Lord Selkirk sold his other estates in the southern part of Queen's County, amounting to some 70,000 acres, to his agent instead of to the Government (an event which, at one time, seemed likely to happen), the consequences would have been appalling, as it is a fact, which can be proved by reference to the accounts in the Crown Lands Office, that the arrears of rent due by the tenants on those estates actually exceeded the purchase-money paid to his Lordship.

In another passage of their memorial, the proprietors complain that the object of certain testamentary dispositions, which have been made with a view to provide for the education and maintenance of minors, would be defeated, should the Tenants' Compensation Bill receive the Royal Assent.

The Undersigned have already shown that, in the early settlement days of the Colony, the proprietors used their monopoly of land to impose terms on the tenants which the latter were not in a position to resist. The termination of short leases, events now of frequent occurrence, would again place them in a similar position; but the choice would now lie between relinquishing their homesteads and clear fields, or accepting the terms of renewal the proprietors saw fit to impose. These island proprietors, in effect, adopt the language and arguments which might justly be used by the landlords of England or Scotland, if their rights to improvements were questioned. When those British proprietors grant leases, they demise fields cleared, fenced, and drained, dwelling-houses, barns, and stables—holdings within easy access of established markets; but these others demised blocks of unbroken forest, and the improvements which they now seek to appropriate have been made exclusively by the tenants, without any outlay by the landlord.

8 The Undersigned do not consider it incumbent on them to vindicate the Judges of the Supreme Court from the animadversions of the Memorialists; they may, however, be expected to offer some remarks on what has been said by the proprietors respecting the construction of roads and bridges.

Many years have elapsed since the opening of a new highway exceeding five miles in length under the provisions of the 14th Victoria, cap. 1, sections 1 to 15, but new roads are frequently opened by commission, under section 16 of the same Act, and pass, for the most part, through lands in the occupation of actual settlers; proprietors, therefore, can only be very remotely interested in such roads. They may, however, in a few instances, have opened up new roads in order to give access to new ranges of farms, and in doing so have found it necessary to construct a few small wooden bridges. There is an exception, which perhaps ought to be noticed, that is, that the Lady Georgina Fane, at her own expense, built a wooden bridge, of considerable size, across an arm of the sea, near the village of Crapaue.

The Undersigned have abstained from alluding to the comparisons which the proprietors' Memorial institutes between the Irish Landlord and Tenant Act and the Tenants' Compensation Act, 1872, of the Legislature of Prince Edward Island; it has been unnecessary for them to do so, because an able and full report on that subject has been sent in by the Solicitor-General, Louis H. Davies, Esquire, by whom the Bill in question was drafted, and who has fully explained the origin and intention of every clause, which report is hereto appended.

In conclusion, they would observe that the proprietors as a body have invariably been treated with the utmost consideration by the Ministers of the Crown; that they have rejected the liberal offers of the Local Government to purchase their estates at their fairly estimated value. Who, the Undersigned ask, most require the protection of the law—the toiling men and women whose constancy and courage have claimed Her Majesty's Island of Prince Edward from its primeval forests, and converted it into fertile cornfields and smiling meadows, amidst which rise the frequent homestead, the

church, and the schoolhouse, or the proprietor, living, it may be, in luxury on the banks of the Thames, or the sometime agent whose fortune has been built up by the credulity or indifference of the absentee?

All which is respectfully submitted by the Undersigned.

(Signed) ROBT. P. HAYTHORNE, *President.*
EDWARD PALMER.
PETER SINCLAIR.
JAMES MUIRHEAD.
JAMES HOGAN.
DAVID LAIRD.

Certified,
(Signed) WILLIAM C. DES BRISAY,
Assistant Clerk of Executive Council.

Inclosure 3 in No. 6.

Report of the Commissioners on a portion of the Tracadie Estate.

To his Honour Sir Robert Hodgson, Knight, Administrator of the Government of Prince Edward Island, &c., &c., &c., in Council.

THE Undersigned being commissioned to examine a portion of the Tracadie Estate, situated on Townships 35 and 36, and offered by Miss Mary Margaret McDonald to the Government, at 20*s.* per acre for leased, and 15*s.* per acre for unoccupied land, report—

That, being furnished with plans and rent-rolls, they proceeded, on the 23rd of August to inspect, first—

Those portions of the estate on Township 35, lying on the south side of Hillsborough, beginning with the farm held by the Messrs. Brazil. In its general character, the land in this vicinity is scarcely second class; the uplands are light and much wet; sandy land occurs. The farm of the Messrs. Brazil, however, is good; it is held at an annual rent of 10*l.* for 105 acres, by an agreement which will expire in 1872. There is a salt marsh connected with it, on which about four tons of hay may be cut yearly, and the farm is distant about four miles from two public wharves, and ten from Charlotte Town Ferry; its estimated value, with a Government title, would be 400*l.* the occupiers would be content to pay from 25*s.* to 30*s.* per acre, rather than remain as they are, or risk the consequences which may ensue at the termination of the existing agreement.

Patrick Hughes occupies the adjoining farm, which is also held by agreement for forty years, of which fourteen are unexpired. The area is 49 acres; the rent 5*l.* per annum; arrears claimed, 19*l.* 18*s.* 6*d.* Hughes would be glad of the opportunity to purchase at from 25*s.* to 30*s.* per acre; both these farms are bare of firewood and fencing. James Dunphy, whose farm is described as 49 acres, has neither lease nor agreement, and says he holds only about 20 acres belonging to Miss McDonald, for which he is willing to pay 25*s.* per acre, if necessary—46*l.* 5*s.* 6*d.* arrears of rent are claimed from this squatter.

The Finnan River Settlement, described on the plan as containing four farms, and in the rent-roll for 1866-69, as producing a present rent of 10*l.* per annum, and an accruing rent of 30*l.*, with arrears due amounting to 95*l.*, is in fact occupied by one solitary tenant, Allen Campbell, who states that one-half of his 50 acres is swamp; that he has no salt marsh and no fencing stuff; he can maintain but a small stock, three cows, no horse, and thinks 30*l.*—12*s.* per acre—would be quite enough for this farm, in which opinion we, the Undersigned, concur. The other farms in this settlement have been occupied and deserted; the land is light, but easily cleared. With a Government title, 12*s.* per acre might be realized. Two unoccupied farms adjoining Campbell's cannot be rated above 10*s.* per acre.

There is one farm of 50 acres belonging to this estate, on the St. Peter's Road, Lot 36, occupied by Angus Fisher—the rent is 3*l.* 12*s.* He succeeded B. McMahon, who at one time owed arrears to the amount of 28*l.* 16*s.* The farm is poor, the buildings small, and the tenant works as a shipwright. It may be doubted whether more than 12*s.* per acre could be realized for this farm.

The Afton Road lots were next visited by the Undersigned on foot, as Afton Road is still impracticable for carriages. Leases are said to have been granted for two or

three of those farms, but they are unoccupied and unimproved—at present inaccessible; but they are distant only from two to four miles from Hayden's Wharf, Hillsborough, and there is some useful firewood and fencing stuff growing on them. They may be worth 15*s.* per acre—perhaps more, if the road was opened up and rendered passable. The Sandhill Settlement comprises twelve farms—641 acres; present rental, 63*l.* 8*s.* 4*d.* Seven of these farms (39 acres) pay at present 36*l.* 15*s.*, and the accruing rents, unless the tenants are ruined or ejected, or some other arrangement supervenes, will amount to the exorbitant sum of 110*l.* 5*s.* These farms front on the east side of Tracadie Bay, are well situated with a view to the prosecution of the fisheries by their inhabitants. They are intersected by good roads, and are distant about fifteen miles from Charlotte Town, and eight from Mount Stewart Bridge. The quality of the soil on most of them is tolerable, though rather light and hilly, while some of them comprise considerable portions of swamps. The buildings are miserable; the tenants show a want of enterprise, which, though deplorable, is not surprising, considering the nature of their land tenures. The men are often engaged in other than agricultural pursuits—ship-building and fishing, for example; and we found no exertions made to procure sea-manures.

These farms would, however, in the opinion of the Undersigned, support a considerable population in comfort, and even affluence, if the tenure was freehold, but circumstanced as they are, the tenants have no encouragement to exert themselves.

A close inspection of the rent-rolls shows that, in 1864, the gross rent of this estate, including the dower lands, was 106*l.* 0*s.* 4*d.*, and that arrears amounting to 430*l.* 0*s.* 7*d.*, were due by the tenants and occupiers. In 1866 (not including the dower farm, amounting to 501 acres, with a rental of 43*l.* 11*s.* 4*d.*), the arrears were 321*l.* 17*s.* 8*d.*, while in 1869 they had increased to 403*l.* 7*s.* 5*d.*—a sum of 108*l.* 11*s.* 3*d.* having been paid in the interval of three years. Bad as this state of things is, it is not the worst feature in the case. As has been already stated, the agreement by which Messrs. Brazil's farm is held, will expire in 1872; and on the remainder of Miss McDonald's estate, the rentals (so the rolls handed to the Undersigned state) will increase from 63*l.* 9*s.*, payable by the occupiers of 809 acres, to 108*l.* 11*s.* 3*d.*, or in some cases to 6*s.* per acre. This occurs in some instances in the Sandhill Settlements, while in the Finnan Settlement, the maximum rents will be 7*l.* 10*s.* for 50 acres.

In view of these facts, derived from inspection of the rent-rolls, from personal observation and conversation with the occupiers, the Undersigned can come to no other conclusion than this: That a settlement on fair terms is alike desirable for proprietor and tenant. Even the present high rents cannot be collected. Experience has shown that between April 1866 and the same period in 1869, only 108*l.* 4*s.* 3*d.* was received, in place of 190*l.* 7*s.*, which was due. The position of the most industrious and enterprising tenants, the Brazils, Hughes, McAskills, McPhees, is at best, one of anxiety and uncertainty, altogether incompatible with improvement and progress, while that of the poor class, as Allen Campbell, Fisher, Steel, Butler, McInnis and ohers, is almost hopeless under existing circumstances.

The undersigned are of opinion that a purchase, if any is effected, should include the dower farms, leaving Miss McDonald to make the necessary arrangements with her mother, in which case 15*s.* per acre might be offered for the whole, including unoccupied land at the same rate. Assuming that an area of 1,310 acres, including dower lands, exists (though some of the farms representing that amount, are deserted), and 700 acres of wilderness, 2,010 acres at 15*s.* would amount to 1,507*l.* 10*s.*; the interest of which, at 6 per cent., would be 90*l.* 9*s.* per annum, a larger sum than has probably ever been realized as rent in a single year. This amount, to make the estate self sustaining, may be apportioned in the manner set forth in the appended statement:

JOHNSTON'S RIVER SETTLEMENT.

	Acres.	£	*s.*	*d.*
Brazil's farm	105			
P. Hughes's..	40			
Dunphy's	20			
	174 at 25*s.*,	217	10	0
FINNAN RIVER.				
Allen Campbell and three other farms	200 at 12*s.*,	120	0	0
ST. PETER'S ROAD.				
Angus Fisher	50 at 12*s.*,	30	0	0
AFTON ROAD.				
	About 560 at 15*s.*	420	0	0

Sandhills.			
	147 at 22*s.*	161	14 0
	494 at 25*s.*	617	10 0
	641	779	4 0
Salt Marsh, 30*s.* per acre		20	0 0
80 acres vacant land at Finnan		40	0 0
40 acres vacant land on Sandhills		30	0 0
Total		1,656	14 0

A margin of 156*l.* 14*s.* would thus be left to cover losses and working expenses, and would probably prove sufficient if the uuoccupied land was speedily settled, as would likely be the case when this portion of the McDonald estate become vested in the Government.

Annexed is a copy of Messrs. Brazil's agreement, which, together with the foregoing, is respectfully submitted by the Undersigned.

(Signed) ROBERT POORE HAYTHORNE.
F. KELLY.
ISAAC THOMPSON.

Certified,
(Signed) William C. Des Brisay,
Assistant Clerk of Executive Council.

Inclosure 4 in No. 6.

Sir, *Charlotte Town, November* 21, 1872.

IN reply to your letter of the 11th instant, requesting me to state as to how far the provisions of "The Tenants' Compensation Act, 1872," are at variance with those of the Irish Land Act of 1870, I have the honour to report—

That at the commencement of the late session of the Legislature I was handed a copy of the despatch of the Right Honourable the Earl of Kimberley of the date of 2nd September, 1871, in which his Lordship detailed at length the reasons which induced him to advise Her Majesty to withhold her assent from "The Tenants' Compensation Act, 1871," and in which he suggested the basis or framework of a Bill which would meet with his approval: and I was instructed to draft a Bill in conformity with the suggestions made by his Lordship, and to take care that no provisions should be introduced at variance with the principles upon which the Irish Land Act was based, or with the suggestions made in his Lordship's despatch.

In compliance with these instructions I drafted "The Tenants' Compensation Act, 1872," and a careful collating of that Act with the Irish Land Act of 1870, and with his Lordship's despatch will, I think, show that in drafting that important measure I carried out my instructions with scrupulous care.

The objectionable clauses and provisions of the Act of 1871 are, in the first place, entirely omitted, and every provision of the Act of 1872 (excepting those regulating the practice to be adopted in carrying out the Act, which involve no principle and which are more fully explained hereafter) is either a transcript of a similar provision in the Irish Act of some unobjected clause of the Act of 1871, or is an embodiment of some suggestion made in his Lordship's before-mentioned despatch.

Sections 1, 2, 3, 4, and 5 of the Act of 1872 are entirely similar in their principle and effect to the 4th section of the Irish Act of 1870, and, indeed, are almost literal transcripts of that section. A small part of that section was omitted in our Act as being totally inapplicable to the relationships existing between landlords and their tenants in this Colony, and the slight difference in the wording of the beginning of the 1st section of our Act from the co-relative section of the Irish Act arises from the same cause. There is nothing, however, so far as I can see, in any of these sections at variance or inconsistent with the principle adopted in the Irish Act.

Section 6 of our Island Act is nearly a transcript of the 5th section of the Irish Act, with the omission of such part of the last-named section as was thought to be inapplicable to our island tenures.

Section 7 is a transcript of the 11th section of the Irish Act.

Section 8 is in substance similar to the 16th section of the Island Act of 1871, and was introduced into the Bill in accordance with the suggestion of Earl Kimberley in his before-mentioned despatch. There is a difference in the wording of the two sections, which was rendered necessary to avoid a conflict between the 8th section and

other portions of the Act. Our Act was framed with the express intention of embracing the cases of those tenants whose rents were in arrear as well as of those more fortunate ones whose rents were all paid up. The Irish Act proceeded upon the same basis, and by both Acts the landlord is entitled to set off any arrears of rent to the claim for tenants' compensation. The latter part of the 16th section of the Act of 1871 appeared open to the objection of being inconsistent with the preceding part of the same section and with other portions of that Act, and the change in the wording of the 8th section of the Act of 1872 was made with a view to avoid that inconsistency, while at the same time it fully met the suggestion of Earl Kimberley.

Section 9 is a transcript of the 16th section of the Irish Act, with verbal alterations rendered necessary for the same reasons as given with reference to several preceding sections.

Section 10 is a transcript of the 17th section of the Irish Act.

Sections 11 and 13 prescribe the mode of procedure by the tenant wishing to take advantage of the benefits of the Act and the manner in which the Court shall proceed to hear evidence. They also invest the Court with large powers of adjournment and direct the mode in which the evidence shall be taken. This section (13) was framed with especial reference to the noble Earl's suggestions in the before-mentioned despatch.

Sections 12, 14, and 15 are respectively transcripts (relation being had to the different circumstances legislated for) of the 18th, 19th, and 21st sections of the Irish Act.

Section 16 is a provision introduced at the suggestion of Earl Kimberley.

Section 17 is a transcript of the 9th section of the Island Act of 1871. It is a provision absolutely necessary to prevent the Act being entirely useless, and was not directly objected to, either by Earl Kimberley or by the Memorialists who petitioned against the previous Act of 1871.

Sections 18, 19, and 20, providing for the amicable adjustment of disputes by permissive arbitration are transcripts of the 25th section of the Irish Act.

Section 21 is a re-enactment of the latter portion of the 17th section of the Island Act of 1871.

Sections 22, 23, 24, 25, and 26 are transcripts of such portions of the 70th section of the Irish Act as are applicable to this island, and were introduced at the special suggestion of Earl Kimberley.

Sections 27, 28, and 29 are respectively transcripts of the 19th, 20th, and 22nd sections of the Island Act of 1871.

It became unnecessary to re-enact the 21st section of the Island Act of 1871, as a clause similar in its nature already existed in a Statute of this island, regulating the practice of the Supreme Court. The schedule referring to arbitrations was copied from the Irish Act.

With reference to the objections against the allowance of this Bill by Her Majesty urged by certain Memorialists in a Memorial to the Right Honourable the Earl of Kimberley, a copy of which you have submitted to me, I may say that that part of the 8th clause in the Bill, to which they first take exception, is contained *verbatim* in the section (16) of the Act of 1871, and was expressly suggested for re-enactment by Earl Kimberley in his before-mentioned despatch. Without such clause or its equivalent the Bill would be a useless incumbrance on the Statute-Book, as your experience and knowledge of the peculiar circumstances of tenants in this Colony will at once convince you.

The next objection of the Memorialists is to the clause (No. 16) empowering the Supreme Court, in its discretion, to appoint two or more assessors to examine the farm for the improvements to which compensation is claimed; and I may say that this clause is one emanating from his Lordship Earl Kimberley, and one which all who have had any experience in Courts of Justice would highly approve of.

The objection to clause 5, which avoids any contract made by a tenant, depriving him of his right to make any claim which he would otherwise be entitled to make under that Act, is best answered by the statement that the clause in question is merely a transcript of part of the 4th section of the Irish Act. The statement in the Memorial that this "enactment (clause 5) is a piece of the most extraordinary and unjust class legislation that ever was perpetrated or attempted in any country, or at any period," is therefore one made in entire ignorance of the legislation of the mother-country. Apart, however, from the safe precedent which has been followed in enacting this clause, I may safely appeal to you as to its absolute necessity, in cases such as those which our Island Statute is intended to meet, where, on the one hand, you have the educated and

the astute, with all the advantages of wealth on their side, contrasted with the comparatively simple-minded farmer compelled by circumstances, in too many instances, to put his name or mark to documents, the real effect of which he does not comprehend.

The objection to the 29th clause—one almost identical with the 22nd clause of the Act of 1871—does not require lengthened explanations from me. I would merely say that, under the circumstances connected with this much-vexed land question, and the different Acts that have been passed to compass its quiet and equitable settlement, nothing could appear to me more equitable and just, or more necessary, especially at the present time, when so many short leases are expiring, than the provisions made by this section.

I have, &c.
(Signed) LOUIS H. DAVIES,
Solicitor-General.

The Honourable Robert Haythorne,
President of the Executive Council.

Inclosure 5 in No. 6.

Extract from Minutes of the Executive Council of Prince Edward Island.

Council Chamber, December 28, 1872.

AT a meeting of a Committee of the Executive Council:—

Present:

Honourable Mr. Haythorne, President.
„ „ Sinclair.
„ „ Muirhead.
„ „ Beer.
„ „ Hogan.
„ „ Laird.

The following Minute or Address to his Honour the Lieutenant-Governor was adopted:—

To his Honour William C. F. Robinson, Esq., Lieutenant-Governor, &c.

Sir,

The Undersigned apply themselves to the duty of commenting on the memorial of John Archibald McDonald Esquire, against the Tenants' Compensation Bill, 1872, with reluctance, because the condition of the tenants on the Tracadie Estate has long been most unsatisfactory.

In passing from the adjoining Township 34, where the tenure is freehold, or the land is held on leases for 999 years at 9*d.* sterling rent per acre, no one can fail to observe the difference in the appearance of the dwellings and farm buildings, in the cultivation of the fields, and the permanency of the fences; yet Mr. McDonald's statement that the settlement of his estate dates 100 years back is probably correct; indeed, it is not improbable that some parts of it were occupied at a still more remote period by the French settlers. The cause of his lack of prosperity is not doubtful. Insecurity of tenure produces the same effects in Prince Edward Island which are observed in Ireland and elsewhere, and demands the same remedy—a Tenants' Compensation Act. Mr. McDonald's own statements in his Memorial admits that the possessions of his tenants are lamentably insecure. He tells the Secretary of State "that some leases on his estate are of 100 years term, and some of as short a term as 60 years," but he says nothing of leases granted for 40 years, though it is well known to some of the Undersigned that many such existed, that some have expired, that tenants have either been evicted or have been compelled to submit to very unpardonable terms of renewal. He adds that "the tenants now holding under such leases are not in general the parties who originally cleared the land, but persons who purchased or obtained the holding or possession from a previous tenant, or from parties who had themselves purchased the holding from a previous tenant." A statement equivalent to this was made a few months since at a public meeting held at one of the school-houses on this estate, where the Compensation Bill of 1871 (which did not receive the Royal Assent) was under discussion. It was there affirmed that from "Tracadie cross roads to the Sand Hills," a distance of five and a-half miles, there are but five or perhaps six

tenants who could avail themselves of the Compensation Bill of 1871, in consequence of that measure applying exclusively to tenants who had actually cleared land from the forest.

The Undersigned submit that this insecurity of tenure, acknowledged by the proprietor himself, accounts for the unprosperous condition of his property; men will not build substantial houses and farm buildings, or embark money in the thorough cultivation of the soil, except with the assurance that they do these things for themselves. Mr. McDonald says his tenants' farms are worth 5*l.* per acre, and that the measure under review would deprive him of four-fifths of his interest in his inheritance. Probably this value is not overstated, but in the adjoining township such farms are made worth double the price stated, but there men are not afraid to apply their energies and their capital to the cultivation of the soil, and the instances of persons quitting their holdings and selling to new comers are comparatively rare. In fact, in laying claim to four-fifths of the value of these leasehold farms, Mr. McDonald, in effect would appropriate the accumulated earnings of his tenants during the currency of the expired lease. The Bill he complains of as calculated to despoil him of his inheritance, has been shown by the Solicitor-General's report to be either a literal transcript of the Landlords' Tenants' (Ireland) Bill, or drafted in conformity with the despatch of the Secretary of State; if it becomes law it will mete out to the tenants on the Tracadie Estate the same measure of justice which tenants of land in Ireland now enjoy.

By no one, perhaps, have the principles upon which the law of landlord and tenant should be based, been laid down more clearly than by Mr. Gladstone. In a debate brought on by the late Mr. McGuire, March 17th, 1868, the Right Honourable Gentleman is reported to have said—"It is customary to argue this question by saying that the law cannot be very grievous in Ireland, because it is the same as the law of England. I myself, amongst others, have been content to do that which, upon a review of the matter, I do not think quite sufficient for the case, namely, have been content to argue that the way of showing that a multitude of local circumstances make the operation of the laws in England different from what it is in Ireland. We have admitted that standard of appeal, but I must now challenge that standard altogether. I must say, on reflection, that so far from thinking that the law of England viewed nakedly with regard to the principle it asserts, namely, that all which the tenant puts into or upon the soil in the absence of covenant to the contrary, shall be the property of the landlord. So far from thinking that a good law, I humbly submit it is a bad law, and that the just and true law should be that in the absence of covenant to the contrary, if the landlord thinks fit to make over to another party the whole business of cultivating the soil, the improvements effected by the tenant in the course of that cultivation should be the property of the tenant."

The Undersigned submit that the Irish Landlord and Tenant Bill goes even further than this, and provides that "any contract between a landlord and tenant whereby the tenant is prohibited from making such improvements as may be required for the suitable occupation of his holding, shall be void, both at law and equity, &c.," and again, in the same clause 4 of the Irish Act, "Any contract made by a tenant by virtue of which he is deprived of his right to make any claim which he would otherwise be entitled to make under this section, shall, so far as relates to such claim, be void, both at law and in equity."

But the Undersigned are not demanding for the tenants of Prince Edward Island any greater privileges than the tenants of land in Ireland enjoy, though if the extent of such privileges depended on the relative difficulties and hardships which have been surmounted, as Mr. Gladstone seems to intimate, then the tenants of this island, and particularly those on the McDonald estate, would be entitled to the more complete freedom of tenure.

The Undersigned do not propose to dispute the accuracy of Mr. McDonald's statements respecting his grandfather's services in the reign of King George the Third. A British Government is never remiss in acknowledging and rewarding all such, but they submit that it would be a grievous injustice in remunerating such services to debar tenants in Prince Edward Island from partaking the same interest in reclamation of wilderness lands and permanent improvements which tenants in Ireland enjoy.

In conclusion, the Undersigned would state that it is hopeless to expect to see any material improvement in the condition of the tenancy on this estate so long as the present unjust land laws remain in force. Until security of tenure is assured to the occupiers of land, the *élite* of the rising generation of both sexes will seek their fortunes elsewhere, the resources of the township will remain undeveloped, and, as heretofore in

Ireland, the sympathies of the public will be offended by the frequent occurrence of distraints and evictions.

All which is respectfully submitted by the Undersigned.

(Signed) ROBERT P HAYTHORNE, *President.*
PETER SINCLAIR.
JAMES MUIRHEAD.
JAMES HOGAN.
DAVID LAIRD.
HENRY BERE.

(Signed) WILLIAM C. DES BRISAY,
Assistant Clerk of Executive Council.

Inclosure 6 in No. 6.

To the Right Honourable the Earl of Kimberley, Her Majesty's Principal Secretary of State for the Colonies.

The Memorial and Petition of the Undersigned, a proprietor of township lands in Prince Edward Island,

Most respectfully Showeth,

THAT your Memorialist has signed a Memorial or Petition, in company with other proprietors of township lands in this Colony, praying that Her Majesty may be advised to refuse her Royal Assent to the Act entitled "The Tenants' Compensation Act, 1872."

That, while your Memorialist fully concurs in, and assents to, all the allegations and statements contained in the aforesaid Memorial, there are further peculiar and personal circumstances in the case of your Memorialist which would render the Act, against which he petitions, a still more cruel and especial hardship and injustice to your Memorialist. These circumstances he desires most respectfully to submit to your Lordship's consideration.

That the 24th clause of the present Act enacts, "That a tenant whose lease has expired, shall be deemed to be a tenant until the compensation due to him under this Act has been paid or deposited."

That on the township land inherited by your Memorialist are some leases of 100 years' term, and some of a shorter term, as 60 years.

That certain of these leases are now approaching the term of their expiry; that the farms held under these leases by the tenants of your Memorialist are valuable, and worth at least 5*l.* per acre if they were to be brought to sale, and that this value, being part of the inheritance of your Memorialist, would, if the present Act were to become the law of the land, be reduced in value to your Memorialist in a proportion of not less than four-fifths of the value of the interest inherited by him, and secured under seal, by every means hitherto held sacred and unimpeachable in law, equity, and justice.

That the tenants now holding under such leases are not in general the parties who originally cleared the land, but persons who have purchased or obtained the holding or possession from a previous tenant, with a full knowledge of the terms, duration, and nature of the lease. Your Memorialist respectfully urges that, in such a case, to add to the value of the tenant's interest by reducing in the same proportion the value of the landlord's interest, would neither be consistent with equity nor with reason, now with the general principles of British law, and would be an act of the most extreme hardship and injustice to your Memorialist.

That the Act against which your Memorialist petitions would have the effect, and is intended by its framers to have the effect, of injuring to the extent of nearly altogether destroying, the remaining interest and inheritance of your Memorialist, whose grandfather, having come to this Colony more than 100 years ago at the head of a considerable body of settlers whom he placed as tenants on his property here, went from hence, at the request of the British Government, to raise and incite his countrymen, Scottish Highlanders by birth or parentage, against the American rebels, then in arms and open rebellion against their Sovereign, His Majesty King George the Third.

That while the grandfather of your Memorialist was thus absent from his property in this Colony in the service of his King and country, the local Government of this

Colony proceeded for their own private purposes and emolument, to escheat and appropriate to themselves and their subordinates a very considerable portion of the property of the grandfather of your Memorialist, on the alleged ground of its non-settlement under the conditions of the original grants of township lands from the Crown, which conditions were, at that time, as well as afterwards and hitherto, most graciously waived by His Majesty and his successors on the ground that it was impossible to fulfil them, the impossibility arising, in a great degree, from the Acts of the Imperial Government with a view to measures necessary for the defence of the kingdom against foreign enemies, and, in the case above mentioned, arising also from the fact of the proprietor, the grandfather of your Memorialist, having taken away with him most of the able-bodied men among his tenants to form the nucleus of a Scottish Highland clan regiment to be employed against the American rebels.

That your Memorialist, having received an inheritance thus diminished and despoiled, as aforesaid, most respectfully appeals to your Lordship and to Her Majesty in Council to defend and protect him against that further and still more complete destruction of his interest in his own freehold property which must be inevitable in the event of the Act against which he petitions becoming the law of the land.

Your Memorialist most respectfully prays that, for the reasons above set forth, as well as the reasons set forth in the Memorial of the same date, in which your Memorialist has joined with other proprietors of township lands in this Colony, Her Majesty may be advised to refuse her Royal Assent to the Act intituled "The Tenants' Compensation Act, 1872."

And your Memorialist, as in duty bound, will ever pray.

(Signed) JOHN ARCHIBARD MAC DONALD.

Glenaladale, Prince Edward Island, 1872.

Inclosure 7 in No. 6.

Sir, *December* 26, 1872.

IN connection with the Memorial of certain proprietors of land in this island, against the Tenants' Compensation Bill, 1872, the Undersigned requests permission to call the attention of the Secretary of State to a Report, in a London newspaper, the "Mail," of the 6th of November last, of proceedings at a meeting of the Council of the Chamber of Agriculture. His object is to point to the ready and unqualified admission, by several large landed proprietors and Members of Parliament, of the natural and indefeasible right of English tenants to unexhausted improvements, which are defined in two Resolutions moved by Mr. Read, M.P., and do not differ materially from the improvements which it is the object of the Tenants' Compensation Bill to secure to the tenants who have effected them in this island.

In the debate which occurred at the meeting referred to, Sir M. H. Beach, M.P., "Agreed that the right to compensation was one which ought to be enforced by law; and he was ready to support a Bill for that purpose."

Mr. Reade, M.P., said, "That at present the landlord was able by law to appropriate his tenant's property to himself."

Sir John Pakington "Thought the meeting had established the principle, that it was most desirable in the interest of the landowner, the occupier, the labourer, and the public, that the farmer should be able to lay out his capital with a due regard to his security and safety. This principle appeared to him to be sound, politic, and just; and any landowner who resisted it, was, in his view, unmindful of his own interest. . . . He, for one, had no objection to such a course being taken (*i.e.,* application to Parliament), in order to establish the principle for which they had that day contended; and that this should be the general law of the land."

Mr. W. Fowler, "Feared that if the words 'in the absence of a lease or agreement to the contrary' were inserted in the Act, it would become a dead letter."

Mr. Read said, "There were a hundred ways in which a landlord and tenant might contract themselves out of an Act giving compensation to the tenant. He did not, therefore, like the words in the original Resolution, 'in the absence of a lease or agreement to the contrary.' If a landlord were to be allowed to override the Act by a stroke of his pen, it would be far better to have no Act at all."—(Cheers).

Mr. Read's Resolution, as finally amended, was put and agreed to; it is as follows:—"That this Council considers it necessary, for the proper security of capital engaged in husbandry, that where such security is not given by lease or agreement, the outgoing tenant should be entitled by law to compensation for the unexhausted value

of his improvements, while at the same time the landlord should be paid for dilapidations and deteriorations caused by default of the tenant. Provided that the above Resolution shall be subject to the consent of the owner in the case of buildings, drainage, reclamation, and other improvements of a permanent character."

With reference to the foregoing Report, the Undersigned would express his opinion that, if the proprietors of Prince Edward Island would adopt and act on the principles set forth in the speeches and resolution above quoted, there would remain but little cause of dissension between them and their tenants, as to their respective rights of property; but the Secretary of State will not fail to observe that the proprietors' Memorials, more especially that of John A. McDonald, Esq., lay absolute claim to all the tenants' improvements on termination of a lease. As to the evil effects of the leasehold system in retarding the improvement of agriculture, and inducing the emigration of the youth of the Colony, the landlords, of course, display entire indifference.

2. Mr. Froude, in his fourth lecture on Ireland, delivered at New York, thus expresses himself with reference to events which occurred in Ulster nearly a century ago, and which, in several respects, bear a strong similarity to the relations between landlord and tenant on some estates in Prince Edward Island at the present time.

Mr. Froude says: "The year before the tea was set afloat in Boston harbour, Ulster grandees had sent out here, to America, a contingent of exasperated emigrants unusually numerous. The Ulster linen manufacture had been developed by the skill and industry of Presbyterians. As compared with the southern provinces Ulster was a garden: land had risen greatly in value; capital made by trade had been sunk in the soil, an educated, enterprising peasantry had converted bog and mountain into corn and flax fields. Noble lords, to whom a large part of this land belonged, but who had never so much as set their eyes upon the surface of their property, concluded that the increased value did not belong to the tenants who had created it, but to themselves who had allowed it to be created. As leases fell in they demanded enormous fines before they would renew them, or rents which could not possibly be paid. They served ejectments without remorse or scruple; families, who had been 50 or 100 years upon the soil, chiefly Protestants, were turned adrift; thousands of men, women, and children were made homeless, houseless, and were robbed—for no other word can be used about it—by those who ought to have been their natural protectors."

In our time Ulster tenant right has provided a remedy for the evils so vividly described by Mr. Froude, and similar protection is required even at this day in some parts of this Colony. What the Ulster tenant did for the reclamation of mountain and bog, the tenants of Prince Edward Island have done for forests and marshes. Noble lords and ladies know about as much of their vast possessions in this island as their agents choose to tell them, or as they can gather in a brief summer tour. It is true there are creditable exceptions to this, but the numerous easy bargains which agents have made with proprietors proves, at least, great indifference on the part of the latter. Here, too, may be noticed, especially on the McDonald or Tracadie estates, the same intention to appropriate the tenants' improvements, which Mr. Froude describes, and to which the same emphatic term may, not unjustly, be applied. Wholesale evictions, it is true, are not common in this Colony, perhaps because the process is expensive, perhaps because, in this thinly-peopled country, there might be a difficulty in letting many vacant farms.

Trusting that the foregoing opinions of several eminent persons on the question of the right of tenants to the improvements made by them on their farms may contribute to induce the Secretary of State to advise Her Majesty to give her Royal Assent to the Tenants' Compensation Bill, 1872, the same are respectfully submitted by the Undersigned.

(Signed) ROBERT POORE HAYTHORNE,
President of the Executive Council.

William C. F. Robinson, Esq.,
Lieutenant-Governor, Prince Edward Island.

No. 7.

The Earl of Kimberley to Lieutenant-Governor Robinson.

Sir, *Downing Street, April* 22, 1873.

WITH reference to the "Tenants' Compensation Act, 1872," forwarded in your despatch of the 28th December last, I have the honour to transmit to you copies of protests which have been lodged against it by certain proprietors of land residing out

of the Colony. Until those protests had been received, I deferred taking any steps in the matter, as I thought it desirable that I should be fully informed of all the grounds which could be urged against allowing this Act to come into operation before communicating with you on the subject, and seeking for an explanation as to certain points which require to be cleared up before I can tender any advice to Her Majesty upon the Act now under consideration.

But, before referring to these matters, I desire to express my sense of the care which has evidently been taken in the preparation of this Act, with a view to improve upon the Act of 1871, and to meet the suggestions made in my despatch of the 2nd of September of that year.*

The two points which I desire to bring under the notice of your Ministers relate, first, to the omission of any provisions similar to those in the last paragraph of the 4th section of the Irish Land Act (33 and 34 Vict., cap. 46); and, secondly, to the construction of the 8th section when taken in connection with the 17th section of the Colonial Act.

With regard to the first point, I have to observe that the provision of the Irish Land Act which lays down rules by which the Court is to be guided in awarding compensation to a tenant was very carefully considered, and it is expedient, both for the purpose of preventing dissatisfaction with the decisions of the Court, and of enabling the parties to know precisely to what points their evidence should be directed, that the principles by which the Court is to be governed should be distinctly enunciated in the Act.

For these reasons I would suggest that an Amending Act should be introduced embodying the last paragraph of the 4th section of the Irish Act, or the present Act should be repealed and re-enacted with this addition.

With regard to the 8th section, I observe that the Solicitor-General in his Report, which is annexed to your despatch of the 28th of December last,† states that it is in substance similar to the 16th section of the Colonial Act of 1871, and that it was introduced into the Bill in accordance with the suggestion in my despatch of the 2nd September, 1871.

The 16th section of the Act of 1871 provided amongst other things that no tenant should be entitled to any compensation when his tenancy had become forfeited by reason of the non-payment of rent, and in my despatch I mentioned that this exception as to forfeiture of tenancy for non-payment of rent should be maintained.

I apprehend, therefore, that it was intended by this Act of 1872 to prevent a tenant from claiming or receiving compensation under the Act when his tenancy was determined by the landlord for non-payment of rent, although the fact that there were arrears of rent would not, under the concluding proviso in the section, bar the tenant from recovering compensation when the tenancy was determined for any other cause.

In this respect, then, as you are aware, the Act differed from the Irish Land Act, which, by the 9th section, provides that a person who is ejected for non-payment of rent "shall stand in the same position in all respects as if he were quitting his holding voluntarily," and shall therefore be entitled to claim compensation under the 4th section of that Act.

If I am correct in the construction which I put upon the Colonial Act, it affords a complete answer to those who protest against it on the ground that it prevents a landlord from ejecting for rent, because he would be at once met by claims for compensation far exceeding the amount of rent in arrear.

But a doubt arises upon this point from the introduction into the Colonial Act of the 17th section which is adapted from the Irish Land Act, and which in terms applies to all proceedings for ejectment, including ejectment for non-payment of rent.

I should have no objection to make to the provisions of this section if it did not practically interfere with the provisions of the 8th section, but if it includes cases of ejectment for non-payment of rent, it is inconsistent with what I understand to have been the intention of the framers of the Act.

Upon this point, therefore, I require further information before tendering any advice to Her Majesty upon the Act; but with a view to remove all doubt upon the question, I would suggest that the exclusion from compensation referred to by the 8th section should be confined to persons who are ejected for non-payment of rent, and that in the 17th section some words should be inserted for the purpose of preventing the application of that section to such cases of ejectment.

I trust that your Ministers will assent to the introduction of an Act to carry out

* No. 4. † No. 6.

the amendments suggested in this despatch, and, should such be the case, it will afford me much satisfaction to be enabled to advise Her Majesty to confirm this Act and the Amending Act by Order in Council.

I have, &c.
(Signed) KIMBERLEY.

Inclosure 1 in No. 7.

My Lord, 5, *Upper Brook Street, March* 29, 1873.

I HAVE been prevented by illness during the last ten days from writing to your Lordship on the subject of the Act entitled "Tenants' Compensation Act," that was passed last year by the local Legislature of Prince Edward Island, and that has recently been sent to your Lordship, with the details of which I have only very recently become acquainted.

I now write to petition that this iniquitous Act, the object of which must have been, and the effect of which will be, to confiscate the property of every proprietor of land in the island, and give it to the tenant, may not receive the Royal Assent.

My first feeling on reading it was, that it must be unnecessary for the intended victims of this Act of spoliation and confiscation to petition that the Royal Assent should be withheld from it, and that we may feel assured that Her Majesty's Government will never permit that so grievous a wrong should be inflicted on us; but there are some reasons for which subjecting the proprietors of Prince Edward Island to the injury that will be inflicted on them by this Act would be peculiarly unjustifiable, which it may be well to state.

In any country, and in any case, it must be vile injustice to oblige a proprietor who wishes to obtain payment of a rent to which he is entitled to purchase the property for which that rent is paid. In Prince Edward Island, as elsewhere, many a proprietor entitled to a rent is not wealthy enough to put down a sum of money to purchase the property. If this Act should become law, the tenant will just refuse to pay rent, and the proprietor will have no means whatever to compel him to pay it. In Prince Edward Island the greater part of the tenants (indeed, almost all) hold their farms or premises on leases of 999 years—some are of 99 years.

The rent they pay to the proprietor from whom they hold the lease is so small, that on a cleared farm it is a mere trifle. During the early years of their tenancies the proprietors have acted towards them with the greatest leniency. They have in many cases given up to them a large amount of arrears of rent, and in every case have assisted the tenant in clearing the land, and improving their farms by works, the expenses of which have been paid by the proprietors.

The tenants are more numerous than the proprietors. They elect the members of their Legislature. And even now, as the law stands at present, a proprietor has great difficulty in obtaining payment if a dishonest tenant withholds it. Acts of harshness on the part of a proprietor are almost impossible.

I hear the "Irish Land Act" referred to on the subject. There is the most complete difference in the case of the two countries. In Ireland the tenants had no leases, and perhaps needed protection against the landlords. In Prince Edward Island they have long leases, and the landlord needs protection against the tenant.

The Act now in question passed in Prince Edward Island will enable the tenant, whenever he chooses, to refuse payment of rent. It cancels every arrangement made by the tenant on taking the lease. It destroys and effaces every law and custom of the country, and by its various clauses renders the landlord totally helpless.

I was in Prince Edward Island twelve years ago, when a Commission was sitting to inquire into the grievances that the tenants might have to complain of.

Some of the proprietors submitted to this Commission, and to them the Act in question, if allowed to pass, would be a breach of faith on the part of the Home Government. I did not submit to it, believing, as other proprietors did, that we could arrange our affairs with our tenants ourselves better than by the interference of other persons. After sitting some weeks listening to all the complaints brought before them by every tenant in the island who thought he had a grievance, the Commissioners, on breaking up their Court, declared that they had not heard one case of real harshness.

Now, I wish to ask what have the proprietors done in the last eleven years to bring down upon them an Act confiscating their property, and passing it over to their tenants?

What have I done, that my tenants complain of, that subjects me to the penalty of having my property taken from me and given to them? I can fearlessly appeal to my tenants, and ask if I have been harsh to any one of them? If I have done anything that is complained of, I have a right to demand that I should be informed of it, and that I should have a fair trial, and not be subjected to a confiscation of my property without even knowing what I have done to deserve it. The treatment with which we are threatened is contrary to every principle of common justice— contrary to every principle of English law. I appeal against it in my own case, and in that of the other proprietors of land in Prince Edward Island. I believe that all have treated their tenants with kindness, have assisted them in the work of improving their farms, and have given up to them large amounts of arrears of rent; and now to pass an Act which is to take from the proprietors the right to enforce payment of the small rent that is due to them, is an injustice that one can understand being committed by a House of Assembly elected by the tenants,—but which it is impossible to suppose can be committed by the Government of this country.

I protest against the injustice of it, and entreat that the Assent of Her Majesty may be withheld from an Act that is a despotic edict of confiscation against loyal subjects of Her Majesty, who are not even accused of having done anything to deserve it, and whose sole fault, as far as they are aware of, is that they are owners of property that others wish to obtain possession of.

I am, &c.

(Signed) C. GEORGINA FANE.

The Right Hon. the Earl of Kimberley,
&c. &c. &c.

Inclosure 2 in No. 7.

My Lord, *Broom House, Fulham, March* 31, 1873.

AN Act has been passed by the Legislature of Prince Edward Island entitled "Tenants' Compensation Act." This Act now awaits the Royal Assent. As the owner of a large estate in that island, and therefore much interested in the protection of property, I would pray that your Lordship advise the Queen to withhold her Assent from this Act.

The Act in question appears to be of the same character, and to have been drawn up in the same spirit, as that which was disallowed by the advice of Lord Lytton in 1858, and I think I am correct in saying that he stigmatised that Act as plainly intending to transfer the property of the landlord to the tenant. The Act under your Lordship's consideration provides that at the legal termination of a lease, before a tenant can be compelled to leave his farm, the landlord must pay him compensation for his so-called improvements. In other words, should a tenant holding the usual lease of 999 years, and paying the usual rent of 1*s.* an acre, prove refractory and, after allowing arrears to accumulate, refuse to pay either these or the annual rent, he cannot be turned out of his farm without compelling his landlord to pay a heavy compensation for what he calls improvements. The injustice of such a proceeding must be apparent to your Lordship, and I earnestly trust that, small and distant as the Colony of Prince Edward Island is, you will give the Legislature of that Island to understand that justice to proprietors will be upheld in all parts of Her Majesty's dominions.

I visited the Island myself in the year 1867, and satisfied myself of the well-doing and absence of any cause of complaint of the tenants. Being the largest owner of land in the Island, I cannot but feel that the Act is directed greatly against myself, and it is peculiarly unjust; for, some years since, an Act was assented to by my father, by which not only every tenant secured a large remission of arrears due by him, but he obtained the privilege of purchasing his farm at fifteen years' rent, and we were assured that, in assenting to that Act and giving up so much, we were settling the land question for ever. Now, it would appear that not only have we done all this in vain, but that we are to be compelled to transfer our property altogether to the tenant under an Act framed for that purpose, but entitled the "Tenants' Compensation Act."

The fact is that the present Government of Prince Edward Island deem it a political necessity to pass such an act of spoliation in order to secure votes of the tenants at the next general election. The land question has, for many years past, been the cry on which each party alternately has appealed to the country. There is now no real grievance.

Trusting that these facts may weigh with your Lordship in considering this matter, which is one of immense importance to proprietors of land, I have, &c.

(Signed) CHARLOTTE SULIVAN.

The Right Hon. the Earl of Kimberley,
&c. &c. &c.

Inclosure 3 in No. 7.

My Lord, 1, *Bedford Row, April* 2, 1873.

ON behalf of General the Viscount Melville, and as his solicitor, I beg respectfully to draw your Lordship's attention to the provisions of the Landlord and Tenant Act recently transmitted from Prince Edward Island for the Assent of Her Majesty, and to the effect of those provisions on owners of land in that Colony; and on behalf of Lord Melville, as one of such owners, would respectfully protest against the measure in question.

Your, &c.

(Signed) G. B. GREGORY.

The Right Hon. the Earl of Kimberley,
&c. &c. &c.

Inclosure 4 in No. 7.

My Lord, 7, *Catherine Place, Bath, April* 10, 1873.

I BEG leave to address your Lordship on the part of my wife, her sister Miss Fanning, and my own, as proprietors of land in Prince Edward Island, respecting an Act passed in the course of the last year by the local Legislature of that Colony, and recently transmitted to this country for Her Majesty's confirmation.

This Act, entitled the "Tenants' Compensation Act," was accompanied by a Memorial signed by all the resident large proprietors of land in the Island, and likewise by the respective agents there for those proprietors who were absent, strongly protesting against this unjust, most objectionable Act, and praying that it might not receive the Royal Assent.

A Memorial so unanimously signed, and which so clearly and fully sets forth the injurious effects it would have on the interests of all the landowners of the Island, and the iniquitous proceedings to which it would give rise, might be considered all that was requisite on the present occasion, but, lest your Lordship should deem it expedient that the proprietors in this country should, in this instance, sanction the acts of their agents abroad, I am induced to give your Lordship the trouble of this communication to assure you personally and individually that we entirely concur in all that the Memorial sets forth as the inevitable result or results of this extraordinary piece of legislation, should it become law, and especially to call your attention to the novel circumstances under which this Act was passed, that is, with a suspending clause until the Royal Assent should be granted, as is the case in all Colonial Bills affecting landed property, but enacting likewise that all proceedings taken under it were to be valid, whether that Assent was given or withheld. With this understanding many mischievous proceedings most probably have already commenced.

The end will be, and at no distant date, that our properties will be transferred to the tenantry, unless Her Majesty's Government should decline to sanction this most illegal Act.

We have, &c.

(Signed) B. H. CUMBERLAND, *Lieutenant-Colonel.*
M. T. CUMBERLAND.
M. M. FANNING.

The Right Hon. the Earl of Kimberley,
&c. &c. &c.

No. 8.

Sir G. Montgomery to the Colonial Office.—(Received April 25.)

Sir, *Villa St. Héloise, Cannes [no date].*

UNDERSTANDING that an Act of the Colonial Legislature of Prince Edward Island, in reference to landlords and tenants, is now under Lord Kimberley's consideration, and having been informed that seventy of the resident proprietors in the Island have petitioned against the Act, and that Lady Georgina Fane, Lord Melville, Colonel Cumberland, and other non-resident proprietors have been protesting against it, I beg to add my protest, and venture to express a hope that his Lordship will be pleased not to recommend Her Majesty to give her sanction to such an Act.

I am, &c.

(Signed) G. GRAHAM MONTGOMERY.

No. 9.

The Earl of Kimberley to Lieutenant-Governor Robinson.

Sir, *Downing Street, April* 30, 1873.

I HAVE had under my consideration the Memorials and other documents inclosed in your despatch of the 28th of December last,* relating to the "Tenants' Compensation Act, 1872."

In my despatch of the 22nd of this month,† I communicated to you the views of Her Majesty's Government on the subject of this Act, and I now transmit to you a copy of the answer which has been returned by my direction to certain proprietors of land in Prince Edward Island who are resident in this country.

I request that you will return a similar answer to the persons who signed the Memorials prepared in the Colony against the Act.

I am, &c.

(Signed) KIMBERLEY.

Inclosure in No. 9.

Colonial Office to Lady Georgina Fane.‡

Madam, *Downing Street, April* 26, 1873.

I AM directed by the Earl of Kimberley to acknowledge the receipt of your letter of the 29th of March,§ protesting against the Act recently passed, with a suspending clause by the Legislature of Prince Edward Island, intituled the "Tenants' Compensation Act, 1872."

Lord Kimberley desires me to inform you that he has carefully considered the arguments which have been urged against this Act by proprietors resident in this country, and those set forth in Memorials transmitted to him through the Lieutenant-Governor of Prince Edward Island. Whilst assenting generally to the principle of this measure, Lord Kimberley has thought it necessary that certain amendments should be made before he can tender any advice to Her Majesty on the subject.

The Lieutenant-Governor has accordingly been apprized of the amendments which are considered necessary by Her Majesty's Government, with a view to their adoption by the Legislature of Prince Edward Island.

I am, &c.

(Signed) H. T. HOLLAND.

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* No. 6. † No. 7.

‡ Similar letters were addressed to Miss Sulivan, Mr. Gregory, Colonel Cumberland, and Sir G. Montgomery.

§ Inclosure 1 in No. 7.

No. 10.

The Earl of Kimberley to the Earl of Dufferin.

My Lord, *Downing Street, August* 11, 1873.

YOU are probably aware that questions connected with the tenure of land in Prince Edward Island have for many years engaged the attention of the Government of that Colony. Much correspondence was carried on with reference to this subject at different times by my predecessors in this Office, and during the present and the two preceding years I have been in communication with the Government of Prince Edward Island and with persons in this country on the subject of a measure entitled the "Tenants' Compensation Act." A Bill bearing this title has, I understand, been before the Legislature of Prince Edward Island during the late Session, but I have not learnt what was the fate of the Bill.

I shall be obliged by your informing me whether it passed the Legislature, and, if so, whether it passed before or after the admission of Prince Edward Island into the Dominion. In the latter event it would devolve upon your Lordship to give or withhold the Royal Assent; and it is desirable that, before you come to a determination, you should have before you all the particulars of the case. I have, therefore, desired the necessary information to be compiled, so that, as soon as possible, it may be transmitted to you.

I have, &c.
(Signed) KIMBERLEY.

No. 11.

Governor the Right Hon. the Earl of Dufferin, K.P., K.C.B., to the Earl of Kimberley.

My Lord, *The Citadel, Quebec, September* 1, 1873.

IN reply to your Lordship's despatch of the 11th of August last, I have the honour to inform you that a Bill entitled "The Tenants' Compensation Act," did, as your Lordship understands, come before the Legislature of Prince Edward Island during the late Session, and that it passed that Body before the union of the Colony with the Dominion of Canada.

I have, &c.
(Signed) DUFFERIN.

No. 12.

Governor-General the Earl of Dufferin to the Earl of Kimberley.—(*Received December* 10.)

My Lord, *Government House, Ottawa, November* 25, 1873.

I HAVE the honour to acknowledge the receipt of your Lordship's despatch of the 13th ultimo, desiring to be furnished with a duly authenticated transcript of the recent Act of the Legislature of Prince Edward Island affecting the land tenure question, and I now beg to transmit to you herewith a copy of a despatch from the Administrator of the Government of that Province, together with an authenticated copy, in duplicate, of the Act referred to, accompanied by a Report in duplicate from the Attorney-General explanatory of the Act, and assigning reasons for passing it, which occurred previous to the union of Prince Edward Island with Canada.

I have, &c.
(Signed) DUFFERIN.

Inclosure in No. 12.

Sir, *Government House. November* 14, 1873.

I HAVE the honour to acknowledge the receipt of your despatch of the 4th instant, transmitting a copy of a despatch from the Right Honourable the Secretary of State for the Colonies of the 13th ultimo, and requesting me to forward to your Department, an authenticated transcript of the Act therein referred to, and I now inclose herewith

a transcript of it, in duplicate, authenticated under the Great Seal of this Island, together with the Attorney-General's report thereon, also in duplicate, explanatory of the Act in question, and assigning reasons for passing it, which occurred previous to the admission of this island into the Dominion.

I have, &c.
(Signed) R. HODGSON, *Administrator.*

The Honourable the Secretary of State,
Ottawa.

[This Act is printed No. 2 in the Appendix.]

No. 13.

The Earl of Kimberley to the Earl of Dufferin.

My Lord, *Downing Street, February* 12, 1874.

I HAVE had under my consideration the Acts passed by the Legislature of Prince Edward Island, with suspending clauses, before the admission of that Colony into the Union, entitled respectively, "The Tenants' Compensation Act, 1872," and "An Act to Alter and Amend the Tenants' Compensation Act, 1872," which were transmitted to me in Lieutenant-Governor Robinson's despatch of the 28th December, 1872, and your despatch of the 25th November last respectively.*

I have reported to Her Majesty in Council my opinion that the said Acts should be specially confirmed; and I have the honour to transmit you herewith two Orders † of Her Majesty in Council, dated the 2nd February, approving that Report.

Since the passing of the Act of 1873 I have received protests from several proprietors of land in Prince Edward Island, copies of which I inclose for the information of your Government, and I have caused the parties concerned to be informed that, after considering their protests, I thought it my duty to advise Her Majesty to confirm the Acts in question.

I have, &c.
(Signed) KIMBERLEY.

Inclosure 1 in No. 13.

Sir, *Broom House, Fulham, December* 20, 1873.

I BEG to acknowledge the receipt of your letter of December 20. Having on the 31st March sent in my Petition to the Earl of Kimberley, I have refrained from troubling his Lordship again, but I fully concur in all that has been written by Lady G. Fane and other proprietors. Though the "Tenants' Compensation Act" is amended by the alterations made in it, I must again pray his Lordship to advise Her Majesty to withhold her assent to it.

It is an Act that will disturb the relations between landlord and tenant, be very detrimental to the interests of proprietors, and is especially unfair to those who, like myself, gave up large arrears of rent on the assurance that the land question would thus be settled. It will deteriorate the value of the land in any question of sale, and, as the proprietors find it almost as difficult to obtain justice as rent in Prince Edward Island, it is to the Home Government alone that they can look for protection of their rights.

I am, &c.
(Signed) C. A. SULIVAN.

The Under-Secretary of State,
Colonial Office.

Inclosure 2 in No. 13.

Strath Gartney, Prince Edward Island.

My dear Sir, *November* 25, 1873.

I HAVE been for some time past indulging the pleasing hope, occasionally fanned or encouraged by rumour, that we might have the real gratification of seeing

* Nos. 6 and 12. † Not printed.

you and Mrs. Robinson again at Government House. I hope so still, and shall continue to do so, while possibility and uncertainty permit me to do so.

Passing as we are under the rule of the Canadian Dominion, for good or for evil, and I told all my misgivings on that subject, as on most other subjects, to your Excellency, I feel it to be of the very highest importance to the proprietary interests that Her Majesty's Home Government should give such a recognition to the Dominion Government of our rights as proprietors of township lands in this Colony, rights conferred originally by the Crown, repeatedly confirmed and acknowledged subsequently, as may tend to secure us against any future attempts to deprive us of our property, or to lessen its value to us, by direct compulsion to sell it, or by any more indirect and insiduous, but equally effectual measures of legislation. My good and kind friend Lady Georginia Fane has joined me in an application to that effect to Lord Kimberley, I trust the other proprietors resident in England and Scotland, including Lord Melville, Miss Sulivan, and Sir Graham Montgomery, will also memoralize the Home Government to similar purport. May we hope for your good word at the Colonial Office, where I am very certain that good word will have very great weight? You know all the particulars of our case; you know particulars which, I believe, no living man but myself could have laid open to you, of bygone misrule and peculation, from which the proprietors and their interest have suffered; you know the inane stupidity of the cry for "free land," and you know the parties, not tenants, who have most loudly, and for their own private sinister ends, raised and re-echoed it, *ad nauseam*. I will not, and I do not, give up the hope of seeing you here, as before. May I ask you to present, for me and my children, our best respects and kindest regards to Mrs. Robinson, and to accept the same yourself.

I have, &c.

(Signed) ROBERT BRUCE STEWART.

To his Excellency the Lieutenant-Governor,
&c. &c. &c.

P.S.—When Responsible Government was inaugurated here by Sir Alexander Bannerman, the old official party, Messrs. Haviland, Hodgson, and others, were made safe, and their salaries secured to them as retiring allowances, by the especial intervention and fiat of the Home Government. We proprietors certainly have a just right to the same recognition now, on the inauguration of our annexation to the Canadian Dominion. If this do not prevent hostile and class legislation against us, it would certainly give us a good fulcrum, or ground of appeal, to the Home Government, if any local legislation here, as in Canada, made such appeal advisable or necessary on our part.

I hope your kindness will excuse my troubling you thus far on this (to us, and, I think, to the honour of the British Government) very important subject.

R. B. S.

Inclosure 3 in No. 13.

Sir, 1, *Bedford Row, W.C., January* 14, 1874.

ON behalf of Viscount Melville, I have the honour to offer a few observations on your letter and inclosure of 20th December, 1873. I understand the latter to be a modification of one or two of the provisions of the "Tenants' Compensation Act of 1872," made in pursuance of a suggestion of Lord Kimberley to the Government of Prince Edward Island, as such modifications appear to be favourable rather than otherwise to the proprietors of land there. I have, of course, no objection to offer to them on behalf of Viscount Melville; but, as I understand, the principal Act has not yet received the sanction of the Crown, I trust that I may be allowed on this occasion to renew the protest against the policy and the provisions of that Act, originally offered by his Lordship, and to express a hope that such protest will still have some weight with Lord Kimberley in advising Her Majesty on the subject.

You are aware that Lord Melville was, through his agent in the Colony, a party to the Memorial of proprietors of township lands in Prince Edward Island, against the Act of 1872, and he still adheres to the statement in that Memorial. But in addition to this, I would respectfully submit, on behalf of Viscount Melville, that the Act of the Colonial Legislature is founded upon the Irish Land Act, whilst there is no analogy between the two countries, nor do any of the reasons exist in the one on which con-

fessedly a very strong and exceptional measure was based for the other. These reasons, as you are aware, were fully discussed in Parliament during the debate on the Irish Land Act, nor does it appear to be necessary to recapitulate them on the present occasion, or to enter into details of the contrast between Prince Edward Island and Ireland. I may be, perhaps, allowed to say, however, that I always understood that the Irish Land Act was to be no precedent for legislation elsewhere between landlord and tenant. That the extension of its principles is hardly desirable, and that this is proposed now by the Legislature of Prince Edward Island just at the time that it is to be absorbed into a larger body who may entertain very different views, and that the Island itself is to form a portion of a Dominion where, so far as I am aware, no legislation exists of the character now proposed.

As regards the details of the Act of 1872, I would, in addition to the points raised by the Memorial of proprietors already referred to, respectfully point out that there are strong and obvious objections to those provisions, which assume that all improvements on a property have been made or effected by the tenant, throwing the onus of displacing this assumption upon the landlord, although the tenant is the claimant as against him. To the provision allowing only two months to the proprietor to object to the claim, leaving him little or no time to investigate it, or indeed if he be not a resident in the island for notice of it to have reached him at all, and also to the provision enabling the tenant to hold as against his landlord during the period that the claim is under consideration, and which would afford him every opportunity of running out the land and damaging the property.

Trusting that these and other considerations which have been urged against the Act of the Colonial Legislature of 1872 may still be open, and that it is still competent to me, on behalf of Lord Melville, to urge them upon the attention of the Earl of Kimberley.

I have, &c.
(Signed) G. B. GREGORY.

The Under-Secretary of State,
Colonial Office.

Inclosure 4 in No. 13.

My Lord, *Enham Lodge, Leamington, January* 19, 1874.

WE have the honour to acknowledge a letter of the 20th ultimo, written by direction of your Lordship, desiring to receive any observations we may wish to offer on an Act entitled "An Act to alter and amend the Tenant Compensation Act," passed by the Legislature of Prince Edward Island in 1872.

We beg most respectfully to represent to your Lordship that we do not perceive that the amendment has rendered this Act less injurious to the landowners in that Colony, and therefore beg leave to repeat our protest against the whole Bill, as inapplicable to the condition and tenure of land in Prince Edward Island, where, as a general rule, it is let on leases in perpetuity, viz., for 999 years, at the very low rate of 6*s.* 9*d.* and 1*s.* currency per acre, and that we cannot but view it as a measure calculated inevitably to unsettle the minds of the tenantry and lead to endless litigation.

Under these circumstances we trust that your Lordship will not think fit to submit the "Act to alter and amend the Tenant Compensation Act" passed by the Legislature of Prince Edward Island for the Royal Assent.

We have, &c.
(Signed) M. M. FANNING.
M. T. CUMBERLAND.
B. H. CUMBERLAND, *Lieutenant-Colonel.*

The Right Hon. the Earl of Kimberley,
&c. &c. &c.

Inclosure 5 in No. 13.

My Lord, 5, *Upper Brook Street, January* 26, 1874.

I FIND that the information I had received relating to the "Tenants' Compensation Act" passed by the Legislature of Prince Edward Island was correct, and that the

alterations made in the Act are so slight that it still virtually confiscates the property of every landowner in the island. I write, therefore, to renew the protest I have already made against it, and the petition I have already made that the assent of Her Majesty may not be given to this flagrantly unjust act.

In my letter to your Lordship of the 8th of July, I remarked on the intense injustice of some of the clauses; on the positive robbery of the property of the landlords that it will affect. I now send to your Lordship a duplicate of that letter. I repeat every opinion it contains. I believe that the confiscation that will be inflicted on the proprietors by this act is wholly unmerited.

I can hardly bring myself to think that Her Majesty's Government will inflict on us so grievous a wrong as sanctioning this Act would be, and I repeat the petition contained in that letter that Her Majesty's Government, in transferring us to the Dominion of Canada, will leave us in possession of our present rights.

I have, &c.

(Signed) C. GEORGINA FANE.

The Right Hon. the Earl of Kimberley,
&c. &c. &c.

Inclosure 6 in No. 13.

Sir, 28, *Lincoln's Inn Fields, London, January* 28, 1874.

REFERRING to your letter of the 20th ultimo, inclosing the Prince "Edward Island Tenants' Compensation Act Amendment Act, 1874," we beg to say that we understand, upon inquiry, that the sanction of the Crown is required not only to this Amendment Act, but to the principal Act to which it refers, and which was passed by the Local Legislature in 1872. On behalf of Lady Georgina Fane we beg to be permitted to refer to the strong protests which she has from time to time sent to Lord Kimberley against the principles and provisions of that Act, and to which protests she desires to adhere.

We may, perhaps, be allowed to add, that it appears to us that the principal Act, which has been copied from the Irish Land Act, is wholly inapplicable to the condition of Prince Edward Island. We apprehend the chief reason which induced the Legislature to pass the Irish Land Act was the want of fixity of tenure in that island, whilst, on the other hand, nearly the whole of Prince Edward Island, excepting such as is still wilderness, is let out on long terms of years at an exceedingly low rent, the original consideration being reclaiming the land from its wild state; and as we understand that this is to be the last exercise of the prerogative in sanctioning Acts passed in Prince Edward Island, we earnestly hope that Lord Kimberley will not advise Her Majesty to give her sanction to a measure which the proprietary of the island unanimously condemn as unjust and ruinous to their interests in the island.

We are, &c.

(Signed) FRERE & Co.

The Under-Secretary of State,
Colonial Office.

Inclosure 7 in No. 13.

Sir, 28, *Lincoln's Inn Fields, London, February* 9, 1874.

WITH reference to your letter of the 4th instant, we beg respectfully to urge upon Lord Kimberley that, as the Government of Prince Edward Island let six months pass before they sent the Acts for confirmation to this country, his Lordship will allow some little time to elapse before he returns them confirmed, in order to give the owners some opportunity of communicating with their agents for making arrangements with reference to the management of their property before the Acts become law, and with this view we may mention a fact with which Lord Kimberley is probably not aware, that since the Acts were sent to England for confirmation Lady Georgina Fane and other large proprietors in the island have received communications from the Govern-

ment of Prince Edward Island asking upon what terms they would sell their estates to the Government.

We are, &c.
(Signed) FRERE, CHOLMELEY & Co.

The Under-Secretary of State,
Colonial Office.

No. 14

Viscount Melville and others to the Earl of Carnarvon.—(*Received June* 4, 1874.)

WE the undersigned, proprietors of land in Prince Edward Island, in the Dominion of Canada, have learned with surprise that an Act, a draft copy of which is appended, is now before the Legislature of that island. We respectfully invite your Lordship's attention to this subject, and submit that the proposed Act is subversive of the rights of property, that it will prove most ruinous to all who own land in that Colony, and that it will be a dangerous precedent to establish as a mode of allaying popular agitation.

It should be borne in mind that there is nothing whatever to distinguish us from other landowners in other portions of the Empire. In no other Colony can land be obtained on such favourable terms as in Prince Edward Island, where the rent per acre, after a lapse of some years, rises only to 10*d.* sterling per acre, and where the leases are in most cases for 999 years.

Fourteen years ago, at the urgent instance of the British Government, a large number of the Prince Edward Island landowners consented to submit their rights to the decision of a Royal Commission, with a view to putting an end to the various questions that had arisen in that Colony. The result of that Commission was a declaration that not a single case of harsh treatment had been proved by the tenants. The proprietors were urged to consent to a remission of the large arrears of rent which they had too indulgently allowed to accumulate. In the hope that by such concessions some security could be thenceforth ensured to them, the proprietors assented to the remission, and also in some instances to an equally serious surrender of their rights in other respects. But the concessions proved unavailing, and became only the stepping stones for fresh aggressions. A Tenants' Compensation Act for Ireland having been passed by the late Government, they sent it as a boon to Prince Edward Island politicans, who only too readily adopted such an acceptable measure of confiscation. By it the tenants were enabled to demand liberal compensation for their outlay upon property held by them, while the unfortunate landlord was precluded by his ill-timed generosity from using as a set-off to such claims the large arrears of rent which had been so unwisely surrendered. It might have been hoped that this Act would have been the last of the long series of oppressive laws that have been passed to harass the owners of land in that country. But the result proves that this is not the case. Though settlers in Prince Edward Island can secure abundance of land, either freehold or leasehold, on singularly favourable terms, a further Act is now in contemplation to deprive the proprietors of their lands. One of the inducements to adopt such legislation is the offer of the Dominion Government to assist the Island Government to buy the lands of the proprietors, as a reward for the adoption of confederation by the people of Prince Edward Island.

We respectfully submit that the proposed Act is without a precedent in the history of Legislation. But even if it were called for, and constitutional as respects its objects, the mode of procedure adopted by it would prove inevitably most ruinous and harassing to the owners of property in that island. The Government, which is practically irresponsible, as it cannot be sued in a court of law, can hold this Act for years over the unfortunate proprietor who cannot force on the proceedings when once commenced, nor obtain compensation or costs when such proceedings have been abandoned. Nor is there any basis provided for valuing the property, so that if a refractory tenant has paid nothing for years there is every reason to believe that the Government will avail themselves of the landlord's misfortune, and will pay him only an equivalent for what he has been actually receiving from the tenant, who will get the land at the lowest possible figure payable on the easiest possible terms.

Apart from these and many other equally serious objections to the form of the Act, we respectfully submit that the Act itself is simply an outrage against modern

civilization, and cannot fail to be utilized in England and Ireland by agitators as a precedent for abolishing leasehold tenures, and for preventing any proprietor from owning more than 500 acres of land.

We beg to draw your Lordship's attention to the singular grounds on which this Act of confiscation is based. The first is that the leasehold tenures of the island have long been a subject of contention, and have proved seriously detrimental to the prosperity of that province and to the contentment and happiness of the people.

We beg to submit that this statement is clearly unfounded, that the cause of the agitation in the island has been the existence of demagogues there, and that the Land Commission of 1860 clearly established the fact that those townships where leasehold tenures existed were far more prosperous than those whose occupants held in fee simple, while the remarkable increase in the wealth and population of the whole island since 1860 proves that it has enjoyed a measure of prosperity which has been equalled in few portions of the British Empire.

One of the other two grounds alleged is that it is very desirable to convert leasehold tenures into freehold estates. This is equally applicable to every part of the Empire, and could be urged with peculiar force in the vicinity of Westminster Hall.

There is one more ground for despoiling us of our property, and that is that there is no reasonable hope of certain proprietors voluntarily selling their township lands to the Government at moderate prices. —

We beg to suggest that even if this state of things does exist in Prince Edward Island, an unwillingness to sell property at a price below its value must exist in every free country where a man's property is secured by law against arbitrary confiscation by the Government.

The conclusion arrived at from these remarkable premises is even more astounding, viz., that because some proprietors do not wish to sell to the Government at moderate prices, and it is desirable to convert leasehold tenures into freehold, therefore, any person owning over 1,000 acres can be forced to sell it to the Government by appraisement, so that the Act applies to all lands, whether held on leasehold or in freehold, and practically amounts to this—that no one shall own over 1,000 acres of land.

We have learned, too, that even this is regarded as too large an amount of liberality to extend to the owners of property, the opposition having endeavoured to amend the Act by preventing any one from owning over 500 acres of land.

In conclusion, we respectfully urge that we have acted most liberally and fairly to our tenants, who hold their lands on more favourable terms than are to be found in any other part of the Empire; that we have made most liberal sacrifices of large arrears for the sake of peace; that year after year we have been incessantly harassed by a Legislature elected by the tenants and their friends; and that there is no shadow of excuse for such exceptional legislation against us unless Her Majesty's Government are prepared to sanction that principle which is the corner stone of Communism, that property is a crime against society.

We therefore pray that the Royal Assent may be withheld from this Act, and feel assured that, as British subjects, we can now very safely leave a measure, based on such socialist principles, to the wisdom and justice of Her Majesty's Government.

We have, &c.

(Signed) MELVILLE.
C. GEORGINA FANE.
C. A. SULIVAN.
G. GRAHAM MONTGOMERY.
W. STEWART, for self and Sister.

No. 15.

The Earl of Carnarvon to Governor the Right Hon. the Earl of Dufferin, K.P., K.C.B.

My Lord, *Downing Street, June* 4, 1874.

I HAVE the honour to inclose, for the careful consideration of your Ministers, the accompanying copy of a Petition which I have received from certain proprietors of land in Prince Edward Island protesting against an Act relating to the sale of land, which is stated to be now before the Legislature of Prince Edward Island.

I am informed that further signatures to this Petition will be sent to me hereafter.

I have, &c.
(Signed) CARNARVON.

No. 16.

The Earl of Carnarvon to Governor the Right Hon. the Earl of Dufferin, K.P., K.C.B.

My Lord, *Downing Street, June* 10, 1874.

WITH reference to my despatch of the 4th of June,* I have to inform you that the persons whose names are stated in the margin† have added their signatures to the Petition against the Act passed by the Legislature of Prince Edward Island relating to the sale of land.

I have, &c.
(Signed) CARNARVON

No. 17.

Messrs. Frere and Co. to Colonial Office.

Dear Sir, 28, *Lincoln's Inn Fields, London, June* 11, 1874.

LADY GEORGINA FANE is very anxious that it should be understood that, in the Memorial which we left yesterday, her signature and that of another are duplicates, Lady Georgiana Fane and the other signatory having signed the duplicate Memorial sent in by her Ladyship to the Colonial Office last week. We explained this on leaving it, but she is still afraid that it may lead to some misapprehension.

Lady Georgina Fane has received a letter from Mr. de Blois, her agent in Prince Edward Island, in which he insists that it is necessary she should send in a Memorial to the Governor-General, and he also urges her to allow him to employ counsel, to be heard before the Governor-General at Ottawa, in opposition to the Bill, and she wishes to know whether, after having memorialised Her Majesty's Secretary of State for the Colonies, it would be necessary or desirable that she should take either of these steps in order to prevent the passing of the "Land Purchase Act, 1874." We shall be much obliged by any information you can give us on the subject. We left with Mr. Dealtry a print of the Act as actually passed, and it is far more objectionable on every point than the Bill as it was introduced to the Legislature of Prince Edward Island. We shall be obliged, after Mr. Lowther has seen this Act, if you will return it to us, as we have no other copy.

We shall be happy, if you wish it, to show you Mr. de Blois' letter, and a petition he has sent to the Governor-General stating that his constituents would also petition the Governor-General.

We are, &c.
(Signed) FRERE AND Co.

Sir Henry Holland, Bart.

No. 18.

Colonial Office to Messrs. Frere and Co.

Gentlemen, *Downing Street, June* 15, 1874.

I AM directed by the Earl of Carnarvon to acknowledge the receipt of your letter of the 11th instant,‡ on the subject of the "Prince Edward Island Land Purchase Bill of 1874."

In reply I am to return to you the Bill which you left at this Office, and to inform you that Lord Carnarvon is aware of no reason why further memorials should not be presented to the Governor-General of Canada, but that he cannot undertake to advise whether the petitioners should request to be heard by Counsel against the Bill.

* No. 15.

† M. M. Fanning, Lieutenant-Colonel B. H. Cumberland, M. T. Cumberland, John MacDonald.

‡ No. 17.

Copies of your letter and of this reply will be sent to the Governor-General of Canada.

I am, &c.
(Signed) H. T. HOLLAND.

No. 19.

The Earl of Carnarvon to Governor the Right Hon. the Earl of Dufferin, K.P., K.C.B.

My Lord, *Downing Street, June* 15, 1874.

WITH reference to my despatches noted in the margin,* I transmit to you copies of correspondence with Messrs. Frere and Co., in regard to the "Prince Edward Island Land Purchase Bill, 1874."†

I have, &c.
(Signed) CARNARVON.

No. 20.

Lady Georgina Fane to Colonial Office.

My Lord, 5, *Upper Brook Street, October* 17, 1874.

I TRUST your Lordship will excuse my troubling you with this letter on the subject of the Land Purchase Act passed by the Legislature of Prince Edward Island in April last, against which every proprietor of land in the island petitioned his Excellency the Governor-General, and all the proprietors who were in England presented a Memorial to your Lordship in June last, of which Memorial I sent a copy to his Excellency, with a strong protest from myself, and an earnest petition that he would not give the assent of Her Majesty to an Act so tyrannical and iniquitous.

The proprietors in the island have received no answer to their Petitions, and we who are in England have not received any information as to whether our Petitions and remonstrances have been favourably considered.

In England we have been easy under the conviction that no British Government will sanction so iniquitous an Act; and in the island, up to this time, very little has been heard of it, the proprietors believing that the Royal Assent will not be given to this Act, which is a positive confiscation of their land, and the tenantry considering the passing of it through the House of Assembly to have been only the manœuvre of a political party; but, from what I have recently learnt, I believe this state of things will not continue if the tenantry are left much longer in uncertainty as to whether the Act will receive the Royal Assent or not.

By the last mail I received a letter from my agent, Mr. De Blois, dated the 18th September, in which he told me that he could not obtain a sixpence of rent on my estates, or on those of any proprietor for whom he is agent, and that, in consequence, he was having notices printed, informing the tenants that if they did not pay by the 4th of November he should take legal steps to compel payment. He adds that he hears the same complaint from everyone in the island to whom rent is due.

I beg your Lordship to take into consideration what a serious thing it is to allow the population of the island to remain in suspense as to whether an Act that abolishes all payment of rent throughout the island, except for this year and the next, is to be sanctioned or not.

The island has hitherto been perfectly quiet. There has been no refusal to pay rent. Agitators have made speeches intended and likely to render the tenantry discontented, but they generally have thought them electioneering speeches, made for the purpose of obtaining votes, and have not been much moved by them. It cannot, however, be expected that the tenantry will continue unmoved if an Act releasing them from the obligation to pay rent is held in suspense before them.

I need not remind your Lordship that one clause of this Act enables the Government to seize the land of any proprietor, without obliging the Government to complete the purchase, whilst another clause exonerates the tenants from any payment of rent to the proprietors, except for this year and the next. The Government will, therefore, have power to seize the land, and hold the intended purchase (as it is called) suspended

* Nos. 15 and 16. † Nos. 17 and 18.

over the owner, and at the end of two years the property will have become utterly valueless to him. This is an absolute confiscation of the land, and is legislation unheard of in any civilized country.

The Act is not aimed at the absentee proprietors, as your Lordship might suppose. It will be quite as injurious, or more so, to the resident proprietors. Mr. Bruce Stewart, the owner of 80,000 acres, is a resident proprietor; he resides not at Charlotte Town, but in the country, in a house which he has built on one of his estates, and lives among his tenants, on good terms with all of them—he has several sons and daughters. To seize his land, giving him little or nothing for it, and reduce his landed property to 500 acres, must destroy whatever plans his may be for these sons and daughters. The Macdonalds are resident proprietors, and to them the two Acts recently passed must bring ruin. There are numerous resident proprietors, owners of smaller properties, who will be ruined if this Act of Confiscation is passed.

I cannot think it possible that Her Majesty's Government can give its consent to such an Act, but I wish now to call your Lordship's attention to the mischief that must result from allowing any uncertainty on the subject to continue for so long.

If Lord Dufferin cannot, until the House of Assembly meets, announce that the Royal Assent will not be given to the Act, surely he might make it become known through the Local Legislature of the island that the Act will be rejected, and that no Act subversive, as this is, of the rights of property, will receive the Royal Assent. I make this petition (as I believe that Her Majesty's Government will not sanction the Act of Confiscation that has been passed) for the sake of the tenant as well as for the proprietor. It is cruel to keep the proprietor with an Act that will ruin him suspended over him, and cruel to the tenant to incite him to place himself on unfriendly terms with the proprietor to whom rent is due.

For the sake of both, therefore, I pray that your Lordship will let it become known that the Act will not receive the assent of Her Majesty.

I have, &c.

(Signed) C. GEORGINA FANE.

No. 21.

The Earl of Carnarvon to Governor the Right Hon. the Earl of Dufferin, K.P., K.C.B.

My Lord, *Downing Street, November* 2, 1874.

I INCLOSE a copy of a letter from Lady Georgina to me on the subject of the "Prince Edward Island Land Purchase Bill of 1874."*

2. There can be no doubt of the injury caused by the delay which has occurred in regard to this Bill.

Although it is as a rule desirable that the Governor-General should act with the concurrence of his Ministers in respect of the allowance or disallowance of Provincial Bills, yet, as this measure relates to a question which had been repeatedly and fully considered before the admission of Prince Edward Island into the Dominion, there may not be the same necessity as in cases originating subsequently to the Union for your taking the opinion of your Ministers respecting it.

3. It appears to me that it would conduce to the settlement of the question if some compromise by way of arbitration were arrived at between the proprietors and the Provincial Parliament; and that it might be of advantage to leave the matter to be settled by a Commission appointed with the sanction of the Provincial Legislature, one member of which Commission might perhaps be named by the Island Government, and another by the proprietors, with an umpire selected by the Governor-General. I make this suggestion, leaving you to adopt it or not as in the circumstances you may think fit.

4. If, after considering the measure, you are not satisfied that it is an equitable one, you will have my full support in dealing with it according to your own opinion.

I have, &c.

(Signed) CARNARVON.

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* No. 20.

No. 22.

Colonial Office to Lady Georgina Fane.

Madam, *Downing Street, November* 5, 1874.

I AM directed by the Earl of Carnarvon to acknowledge the receipt of your letter of the 17th of October,* on the subject of the delay which has taken place in Canada in regard to the Land Purchase Bill recently passed by the Legislature of Prince Edward Island.

Lord Carnarvon has communicated a copy of your letter to the Governor-General of Canada, and will duly apprise you of the course which may be taken on hearing from Lord Dufferin on the subject.

His Lordship greatly regrets the inconvenience caused to you and others by the unsettled state of questions so materially affecting your interests, but the matter is one with regard to which the Governor-General, who has given his best attention to it, has necessarily felt some difficulty in coming to a conclusion.

I am, &c.

(Signed) ROBERT G. W. HERBERT.

No. 23.

Lady Georgina Fane to Colonial Office.

My Lord, 5, *Upper Brook Street, November* 25, 1874.

I THANK your Lordship for the letter which, by your desire, was written to me by Mr. Herbert on the 5th November,† and for your courteous expression of regret that inconvenience should have been caused by the fact that an Act confiscating the property of the owners of land in Prince Edward Island has been held suspended over them for some months.

I trust, however, that your Lordship will excuse me if I express the extreme astonishment I felt on hearing that Lord Dufferin could find any difficulty in coming to the conclusion that this Act, which is a violation of every principle of English law and common justice, should be at once rejected.

The more the clauses of the Act are considered, the more monstrous it appears. At one fell swoop every owner of land in the Colony, except the few who may happen to have 1,000 acres in their own occupation, is dispossessed of his property, which is tranferred to his tenants and to the Government. There is no exaggeration in calling this an Act of Confiscation. It is treatment that never yet has been inflicted on the unoffending owners of land in a peaceful province.

We have heard of wholesale confiscations of land in former times in our country, in Ireland, and in other countries; but it has always been under the pretence that the expelled owners were traitors, and had been engaged in rebellion. No Eastern despot that was ever heard of is reported to have seized the land of all the proprietors in one of the provinces under his dominion, and transferred the possession and right of it to himself and the tenants of the plundered proprietors, except they had done something to offend him.

The machinery provided by the Act for the so-called purchase is undisguised robbery. The Act renders the estate valueless to the proprietor by taking from him all right to demand rent except for two years. The arrears are swept away, or rather, transferred to the Government. The proprietor, at the end of the present and next year, deprived of all power to enforce payment of rent, what price could an arbitrator place on the estate but two years' purchase, and for wilderness land nothing, as it pays nothing now to the proprietor, and under the Act he has no right to retain 500 acres or one acre of his land? The only privilege left to a proprietor is that of paying the land tax on his wilderness land—a heavy tax that he has paid for years.

Is it possible that there can be in the mind of an English Statesman any difficulty in coming to a decision on such an Act? The difficulty cannot be in the mind of Lord Dufferin. It must be elsewhere, and an explanation may be found in the events of last year.

When the Delegates, one of whom was Mr. James Pope, returned from Canada to Prince Edward Island, they announced to the people of the island that the Government of Canada had promised to pass an Act compelling the proprietors to sell their estates.

* No. 20. † No. 22.

I was at that time with other proprietors petitioning Lord Kimberley, then Her Majesty's Colonial Minister, against the Tenants' Compensation Act, an unjust and tyrannical Act, for which there was not in Prince Edward Island the shadow of an excuse.

I had related to him facts within my own experience that proved the truth of my assertion that the proprietors in the island were in need of protection and not the tenants, many of whom are wealthy men, some are members of the House of Assembly, and some (as Mr. James Pope, who himself had been a tenant of mine) are members of the Government.

I informed Lord Kimberley of the statements made by Mr. James Pope and the other Delegates, and entreated that Her Majesty's Government would not throw us helpless into the power of persons who avowed their intention to rob us.

I petitioned for myself and the other proprietors that Her Majesty's Government, in transferring us to the Dominion of Canada, would give us some protection against a local Legislature, the members of which are personally interested in passing Acts framed for the purpose of robbing us of our property.

His Lordship was pleased to disregard our petitions, and within three months afterwards the Local Legislature passed an Act that will at once confiscate our property, and against which we have no defence, except, as we hope, the firmness and justice of Lord Dufferin in refusing to give to it the assent of Her Majesty.

In the autumn of last year, when the Legislature of Prince Edward Island was endeavouring to obtain from the Government of Her Majesty the Royal assent to the Tenants' Compensation Act, which must necessarily lessen the value of land throughout the island, and will render some estates valueless to the owners, it had obtained from the Government of Canada a sum of money for the purpose of assisting it in the purchase of land.

The Government of the island asserted that it intended to buy, as it often has, land which the owners have been willing to sell. Of course it was convenient to lessen the value of property preparatory to purchasing it. They obtained the Act to lessen its value, having previously obtained the money. It appears now that they were at the same time negotiating with some members of the Government of Canada, or with persons who have influence in Canada, for the Act which has now passed through the Local Legislature of Prince Edward Island, which is to confiscate and enable them to obtain possession of the lands of almost every proprietor in the island.

The transaction is, in truth, a disgraceful job; I can find no gentler word to describe it. It is impossible that your Lordship or Lord Dufferin should sanction such a transaction, and give the assent of Her Majesty to it. Whoever the persons may be in Canada who favour it, and according to the statement of Mr. J. Pope and the Delegates there were persons who promised them their assistance, Lord Dufferin, as the Representative of Her Majesty, can surely refuse to give the Royal Assent to an Act that is contrary to all the principles of English law.

Under this Act the proprietors of land in Prince Edward Island who have not in any way offended against the laws of the country, are plundered of their property (which is done effectually by taking from them all power to obtain payment of rent), and in addition are to be summoned before the Court appointed to carry out the confiscation, where they may be insulted, fined, imprisoned, and sentenced to any other punishment the Supreme Court may think proper to inflict, if they do not answer every question relating to their property, and give up all papers, documents, title-deeds, letters, and whatever the Court may please to demand.

No peaceful subjects of Her Majesty in any part of the world are subjected to such tyranny.

I sent to Lord Dufferin a petition from myself against this Act, with the Memorial of the proprietors who were in England. We have never heard if he received it. He has been engaged in important business, and perhaps has not attended much to this.

I therefore entreat of your Lordship to read over the several clauses of this Act, and to call the attention of his Lordship to the iniquity and tyranny of it, in the hope that he will as once make it known that the assent of Her Majesty will not be given.

I have, &c.

(Signed) C. GEORGINA FANE.

No. 24.

F. C. Morgan, Esq., M.P., to Colonial Office.

My Lord, 14, *King Street, St. James's, June* 2, 1875.

I HAVE the honour to inclose you a Memorial from a constituent of mine, which he begged me to forward to your Lordship. Would you kindly see if you can do anything in the matter for him, as it seems to me to be rather a hard case.

I am, &c.

(Signed) FREDERIC C. MORGAN,
M.P. for Monmouthshire.

Inclosure 1 in No. 24.

Fern Hill, near Newport, Monmouthshire,
My Lord, *June* 1, 1875.

I RESPECTFULLY beg to ask for your favourable consideration of this Memorial.

I and my son, Arthur Winsloe Evans, are possessed of nearly 6,000 acres of freehold land in the Province of Prince Edward Island, Dominion of Canada, and the Legislature of that Province have lately passed an Act to compel us and other landowners to sell our estates for the benefit of the tenants.

All our tenants hold their farms under leases for 999 years, at a very low rent, such leases having been granted for the most part about fifty years ago.

The Legislature last year passed just such another iniquitous Act, but the Governor-General, Lord Dufferin, when it was brought before him, refused his sanction to the measure.

I have reason to believe that such improper measures are brought forward in the Provincial Legislature for political purposes. No possible case of hardship can be made out for the tenants, as they are generally very prosperous, and cannot feel injuriously the payments of such very low rents.

I should add that the property I and my son are possessed of has been in the Winsloe family for generations; they once possessed 60,000 acres in the island.

Annexed to this Memorial I send, for your consideration, a copy of the most arbitrary and most unconstitutional Act referred to, also a letter just received from my agent on the subject.

I most respectfully beg to ask for your favourable consideration of my case, and have, &c.

(Signed) SYDNEY TUDOR EVANS.

The Right Hon. the Earl of Carnarvon,
Secretary of State for the Colonies.

Inclosure 2 in No. 24.

Charlotte Town, Prince Edward Island,
Dear Sir, *May* 15, 1875.

I SENT you a few days ago a printed copy of the Act lately passed by our Legislature on the land question, by which you will see its nature. It goes further than the one passed the Session previous, and you will observe that the old questions of title, fishery reserves, quit-rents, &c., are to be opened up. These, we hoped, were all settled by the Commissioners in 1861, or thereabouts. Such a law would, if passed in the United States, be pronounced void and contrary to their Constitution, but I cannot ascertain exactly whether the rights of property by the British law are so clearly defined.

I trust you will make a vigorous protest against this unconstitutional and arbitrary measure (as I believe it is). I do not think it will be passed by the Governor-General, but our silence might be construed into acquiescence with the proposed law.

A Memorial addressed to the Secretary of State for the Colonies will find its way to Lord Dufferin, who is now on his way to England. With kind regards, yours &c.

(Signed) W. J. CUNDALL.

S. T. Evans, Esq.

No. 25.

The Earl of Carnarvon to Governor the Right Hon. the Earl of Dufferin, K.P., K.C.B.

My Lord, *Downing Street, June* 26, 1875.

I AM directed by the Earl of Carnarvon to transmit to you a copy of a letter from Mr. F. C. Morgan, M.P.,* inclosing a Memorial from Mr. S. T. Evans, protesting against the "Land Purchase Act, 1875," of the Legislature of Prince Edward Island.

I am also to inclose a copy of the answer which has been sent to Mr. Morgan.†

I have, &c.

(Signed) CARNARVON.

No. 26.

Colonial Office to F. C. Morgan, Esq., M.P.

Sir, *Downing Street, June* 26, 1875.

I AM directed by the Earl of Carnarvon to acknowledge the receipt of your letter of the 2nd instant,* inclosing a Memorial from Mr. S. T. Evans, protesting against the "Land Purchase Act, 1875," of the Legislature of Prince Edward Island.

2. In reply, I am to inform you that the land question in Prince Edward Island is not one with which the Secretary of State is authorised to deal by the Constitution of Canada; but the decision in the matter rests with the Governor-General of Canada.

3. I am to add that Lord Dufferin has, as Lord Carnarvon is aware, given very careful consideration to this question, and a copy of Mr. Evans's Memorial has been sent to him.

4. I am to return the Act which accompanies Mr. Evans's Memorial.

I am, &c.

(Signed) W. R. MALCOLM.

No. 27.

R. B. Stewart, Esq., to Colonial Office.

Strath Gartney, Prince Edward Island,

My Lord, *September* 17, 1875.

I BEG to inclose herewith a cutting from "The Patriot," a newspaper of this island, published on August 19th ultimo, purporting to be the report of a debate in the House of Lords, on July 26, with reference to the "Land Purchase Act, 1875," and the Commission acting thereon. The award is given in my case, and most cruelly unjust I feel it to be, in which feeling I am joined by many persons here who have not in general been the advocates of the proprietors, but who have seen and are well acquainted with my late estates, of which the Commissioners themselves scarcely saw the hundreth part. My land—67,490 acres—is confiscated and wrenched from me for the paltry and utterly inadequate pittance of 4*s*. 8*d*. sterling per acre, as nearly as I can translate the amount 1 dol. 13 c. I beg to inclose a manuscript memorandum showing the effect upon myself of that award which the Right Honourable Hugh C. E. Childers and Dr. Jenkins, M.D., two of the Commissioners, have passed; the third Commissioner, Mr. Haliburton, repudiating and protesting against the extreme injustice of the said award, refusing to sign it, and retiring from the Commission, at least for the present. For the sake of brevity, I would respectfully beg your Lordship to refer to the report given in the inclosed cutting of your speech in the House of Lords on July 26th last, in which I read that, "under the 'Canadian Confederation Act, 1867,' it is provided that Acts so passed shall be allowed or disallowed, not by the Crown on the advice of the Minister in England, but by the Governor-General." If this be the case, memorials or petitions to Her Majesty are no longer available to Her Canadian Dominion—I cannot say "subjects"—when they are no longer governed by the Sovereign. But I hope that your Lordship's speech has, in this particular, been incorrectly reported. In another part of that speech, as reported, your Lordship appears to imagine (although the fact was widely different) that all the proprietors of township lands assented to the Land Commission of 1860, which Commission the report

* No. 24. † No. 26.

represents your Lordship as mistaking and confounding with "The Tenant League" of 1865. No "Royal Commission was appointed to investigate the matter" of the Tenant League; it was suppressed by a military force sent to this Colony for that purpose, and it now reappears in a new shape,—"The Land Purchase Act, 1875." I am gratified and thankful to learn by the latter part of your Lordship's speech, as reported, that "it is quite understood that his Lordship (the Governor-General) will give whatever consideration is proper to all the representations which may be made to him on either side." May I, upon the strength of this assurance, entreat that your Lordship will be pleased to peruse and consider the purport of the inclosed manuscript memorandum, and also submit it to Lord Dufferin for his consideration. I am very glad to learn from your Lordship's above-mentioned speech, as reported, that you "do not think that the compensation to be awarded under the Act is limited to this sum of 800,000 dollars." Many years ago, at the request of the late Mr. Farrer, of Ingleborough, your Lordship favoured me with a letter of introduction to Lieutenant-Governor Sir Dominick Daly. The present Mr. Farrer, of Ingleborough; Mr. Walter, of Bear Wood, M.P.; or my solicitors, Messrs. Farrer, of No. 66, Lincoln's Inn Fields, would have pleasure in satisfying your Lordship as to my identity and my character for veracity.

I have, &c.
(Signed) ROBT. BRUCE STEWART.

The Earl of Carnarvon,
&c., &c., &c.

Inclosure 1 in No. 27.

THE amount awarded to R. Bruce Stuart by the Commissioners under the "Land Purchase Act, 1875," is 76,500 dollars, being equal to $1\frac{13}{100}$ dollars per acre on the 67,490 acres taken from R. Bruce Stewart under said Act.

R. G. Haliburton, the Commissioner nominated by R. Bruce Stewart under said Act, considered this award so unfair that he would not sign it, although he signed all the other awards but one.

76,500 dollars would require to be invested at $7\frac{1}{3}$ per cent. in order to yield an income of 5,618 dollars, which sum was received by R. Bruce Stewart from 38,517 acres, being that portion of the whole 67,490 acres let on lease.

76,500 dollars would require to be invested at $8\frac{8}{10}$ per cent. to yield an income of 6,732 dollars, which is the amount of annual rent due from above-named 38,517 acres of leased land.

On the above-named 38,517 acres there was due and owing to R. Bruce Stewart, up to 20th November, 1874, a sum of 35,157 dollars, being equal to $5\frac{2}{10}$ years' rent, and equal to nearly 46 per cent. of the amount awarded.

Besides the above-named 38,517 acres of leased land, and the arrears, 35,157 dollars due thereon, the sum awarded was intended to cover the price value of wild land of all qualities, but principally good, 21,785 acres; and also lands claimed by squatters, but of which they have only (by their own testimony) had possession of from 10 to 20 per cent. for the term of twenty-one years, required by law to establish an adverse holding, 7,188 acres; total, 28,973 acres.

Inclosure 2 in No. 27.

PRINCE EDWARD ISLAND.—In the House of Lords, July 26, the following debate took place:—

Lord Penzance rose to call the attention of the Colonial Secretary to the Act of the Colonial Legislature for the compulsory purchase by the Local Government of Prince Edward Island of all or any of the estates of the British proprietors in that Island. The question at issue was one of importance. For some years past there had been a strong democratic feeling on the part of tenants in the island to acquire possession of the land itself. This was not a new state of things in many countries, but in Prince Edward Island it had had considerable sway, the Local Legislature being more or less completely elected by those whose influence was on the tenants' side. Last year a very similar Act to that to which he was now alluding passed the Local Legislature but failed to receive the Royal Assent, the Governor-General in Council stating, in a

despatch to the Lieutenant-Governor of the Island, that he was advised that the Act was objectionable because it did not provide an impartial arbitration for the purchase of this property. The Act of 1874 was also objected to because it was subversive of the rights of property, harassing and ruinous to the owners, and a dangerous precedent by the encouragement it held out to agitation. The Act of this year differed from the Act of 1874 in creating a more satisfactory tribunal for the adjustment of these cases. Three Commissioners were appointed—one by the Governor-General of Canada, one by the Local Government, and the third by the island proprietors. In 1860 the proprietors, most of them resident in this country, were very willing to settle all disputes, and the matter was referred to Commissioners, who reported that the basis of compromise should be, that the lands should be valued at twenty years, purchase, the purchase money being regulated by the amount of rents stipulated to be paid. This compromise had never been carried out. An Act had now been passed which bore very harshly upon the proprietors. The Commissioners were to settle the amount to be paid, taking into consideration, not how much rent had been reserved, but how much was paid, so that the proprietors who had been lax in enforcing their rights would suffer accordingly.

The Commissioners were also to consider what was the probability of recovering rents, so that if the law of the island were lax, as in some respects he believed it was, this fact would tell again against the proprietors. The Commissioners were also empowered to open up old questions whether the original conditions of grant had been observed by proprietors. The Act purported to be one for changing leasehold into freehold tenures, but all that it really did seemed to be to give to the Local Government power to acquire the land compulsorily from the proprietors, while it did not give the tenants any statutory right of purchase. Mr. Childers was going out as one of the three Commissioners and the representative of the Governor-General, and he wished to ask the noble Earl whether any instructions had been given to Mr. Childers to take a reasonable view of the rights of the proprietors under the Act, and whether Her Majesty's Government had been able to do anything which would lead to justice being done to the proprietors. Otherwise there was reason to believe that the true value of the land would be largely depreciated in the course of the inquiry by the Commissioners. He wished also to ask the noble Earl whether the amount payable to the proprietors for the purchase of their rights was limited to the sum of 800,000 dollars, which he believed had been paid by the Canadian Government in consideration of the recent Federation.

The Earl of Carnarvon.—I find some little difficulty in replying in any detail to the noble and learned Lord, and for this reason—that the Act which he has brought under the notice of your Lordships is not an Act which has passed in the ordinary course of Colonial legislation. In the ordinary course of Colonial legislation an Act passed by the Colonial Legislature is sent home to this country either for sanction or disallowance by the Crown; and, of course, the responsibility in such cases rests with the Minister who advises the Crown. This Act, however, stands on a different footing. It is passed by the Provincial Legislature of the Dominion of Canada, and under the Canadian Federation Act of 1867 it is provided that Acts so passed shall be allowed or disallowed, not by the Crown on the advice of the Minister in England, but by the Governor-General. This Act has followed the usual course. It has come under review by the Governor-General, who has, I think, exercised his judgment properly in sanctioning it. I should exhaust the patience of the House if I were to go minutely into the history of this legislation. The noble and learned Lord has alluded to it as a matter of extreme difficulty which has existed for a great number of years. It originated, curiously enough, in a lottery which was held in London rather more than a hundred years ago. The lottery, which afforded a curious picture of the Colonial Administration of the day, was held for the purpose of putting up a large portion, if not the largest portion, of Prince Edward Island, in lots. In one day no fewer than sixty-seven lots were raffled for, each lot containing 20,000 acres of land. Certain conditions were attached to each lot, but in most cases they were not complied with. The consequence was that property which was lightly won was lightly treated. The conditions as to settling the lots with colonists were in the main not complied with, and in addition to that the properties were subjected to the difficulty of absenteeism. The result of these two evils was that complaints, not unnaturally, sprang up in the island. The tenants who held the properties found out that the owners were not complying with the conditions. They themselves, on the other hand, departed from their conditions with their landlords, and either did not pay the rent at all or else allowed it to fall into arrear. The ultimate result was a complete state of confusion and recriminations between the two parties. This went on, and about ten years ago a Tenants' League was formed in the island for the purpose of disputing the possession of the property

with the descendants of those who held the original lots. A Royal Commission was appointed to investigate the matter. The Commissioners say in their Report:—

"The tenantry of Prince Edward Island share the common sentiment of the continent which surrounds them. The prejudice in favour of a freehold tenure, if it is one, is beyond the power of reason. The proprietors cannot change the sentiment, the local Government have no power to resist it, and the Imperial Government, having become weary of collecting rents and supporting evictions in Ireland, can hardly be expected to do for the landlords in Prince Edward Island what has ceased to be popular or practicable at home. It is, therefore, imperative upon all the parties concerned to convert this tenure. Agrarian questions now occupy the public mind incessantly in this fine Colony to the exclusion of all sound politics. A public man is valued in proportion as he is subservient to the proprietors or friendly to the tenants, not for the measures of internal improvement or inter-colonial policy he may propound; and the intellectual and social life of this people is exhausted and frittered away by disputes and contentions detrimental to the interests of all parties."

The Report of the Commissioners presented no exaggerated picture of the state of things in the island, and showed the advantage of putting an end to it by any system of legislation which was likely to meet with a reasonable amount of acceptance by the contending parties. I am not at all disposed to say that the Act is perfect. Indeed, I quite agree with the noble and learned Lord that it is open to very many charges in various points. The main purport of the Act I take to be this:—It requires that a certain notice should be given to the proprietors of the intention of the Government to purchase the land, and provides that three Commissioners shall be nominated, who are to have the power of determining the price. A proprietor may appear by counsel and he may appoint a solicitor; and although he has no appeal from the decision of the Commissioners, yet the Supreme Court of Canada may remit the report of the Commissioners for subsequent revision. I cannot state that the Act is in every respect satisfactory, but I am bound to say that, in my opinion, it is not altogether unfavourable to the proprietors. This Act does not lay down the principle of compulsory purchase for the first time. That principle was laid down before in Prince Edward Island, and this is a supplementary Act which is rather in favour of the proprietors than otherwise, as it provides, on the whole, a fair and equitable machinery to enable them to obtain compensation for their land. My Noble Friend opposite, when he was Colonial Secretary, accepted an Act passed in 1871 on the subject, and also the subsequent Act passed in 1873. Those Acts embodied the principle of compulsory purchase. I think that the House will admit that a very wise and proper choice has been made of the gentlemen who are nominated Commissioners, and who will give a fair consideration to the claims of the proprietors. The Home Government is not in any respect whatever responsible for this Act. It is a measure which was disposed of in Canada by the decision of the Governor-General, and consequently instructions from home would really be superfluous, or rather more than superfluous. At the same time, Mr. Childers has been placed in personal communication with Lord Dufferin, and it is quite understood that his Lordship will give whatever consideration is proper to all the representations which may be made to him on either side. The noble and learned Lord has referred to the sum of 800,000 dollars mentioned in the Act. If I understand rightly, the question of the noble and learned Lord is whether the compensation to be awarded under the Act is limited to this sum of 800,000 dollars. I do not think it is; I have no reason whatever to believe that it is so. The only allusion to this sum is to be found in the preamble, and not in the enacting part of the measure. In conclusion, I will only remind the House of what I originally stated—namely, that this measure is one which has been passed by the Colonial Legislature of Prince Edward Island, and and which consequently receives the sanction, not of the Crown through the Imperial Government at home, but the sanction of the Governor-General of Canada. Taking all the circumstances into consideration, I quite admit there is much to be said on both sides. I think, however, my noble friend the Governor-General of Canada has exercised a wise discretion in assenting to this measure, which I trust will not only put an end to a controversy which has raged for fifteen years, but will put an end to it as much in the interests of the proprietors as in the interest of any other class of the community. (Hear, hear.)

No. 28.

The Earl of Carnarvon to Governor the Right Hon. the Earl of Dufferin, K.P., K.C.B.

My Lord, *Downing Street, October* 6, 1875.

I HAVE the honour to transmit to your Lordship the inclosed copy of a letter from Mr. Robert Bruce Stewart, of Prince Edward Island,* complaining of the judgment of the Commissioners in the amount awarded to him for the sale of his land under the Land Purchase Act, recently passed in that Island.

2. I request that you will inform Mr. Stewart that I have received his letter, but that the Secretary of State is not in this, as in most ordinary cases of Colonial legislation, the authority to whom an appeal lies. Any representations on the subject of the award of the Commissioners appointed under its provisions must be addressed to the Governor-General of Canada. Your Lordship will therefore be good enough to inform Mr. Stewart that I have referred his letter to you for consideration.

3. It is, however, right that Mr. Stewart should at the same time, in reference to certain passages contained in his letter, understand that he is in error if he supposes that the Constitution of the Dominion of Canada has taken away from any of Her Majesty's subjects the right of memorializing Her Majesty, though it is undoubtedly true that in the rearrangement of the jurisdiction of the Colonial Government some matters which had previously been reserved for the consideration of the Secretary of State were entrusted to the decision of the Governor-General.

4. It will be well also to inform him that I was quite aware that all the proprietors of township lands in Prince Edward Island were not consenting parties to the Commission appointed in 1860, and that as I had no intention, so I am not aware, that I confounded, in my speech in the House of Lords (to which he refers) that Commission, as he appears to suppose, with the Tenant League formed in 1865 to resist the payment of rent.

I have, &c.
(Signed) CARNARVON.

No. 29.

Governor the Right Hon. the Earl of Dufferin, K.P., K.C.B., to the Earl of Carnarvon.—Received November 13.)

My Lord, *Government House, Ottawa, October* 27, 1875.

I HAVE the honour to transmit herewith a letter addressed to your Lordship by Mr. James F. Montgomery, of Charlotte Town, on the subject of the Prince Edward Island Land Purchase Commission.

I have, &c.
(Signed) DUFFERIN.

Inclosure in No. 29.

Charlotte Town, Prince Edward Island,
My Lord, *September* 28, 1875.

IN 1874 your Lordship's attention was drawn to "The Land Purchase Bill," which passed through the Legislature here, and to which your Lordship instructed Lord Dufferin to refuse the Royal Assent, on the ground of its being a violation of the rights of property.

No one here, not even those who passed the Bill of 1875, had the slightest idea that it would receive Lord Dufferin's assent. Our conviction that, as long as we remained British subjects, we should be safe from anything like confiscation of our estates, and the very proper stand your Lordship took last year, threw us completely off our guard; while the unprecedented haste with which this Act was assented to (several months before the rest of the Acts of the Session received assent) was designed by the Canadian Authorities to deprive the landowners of this island of the opportunity of appealing to Her Majesty against an Act which was even a greater outrage on law and justice than that which your Lordship had so strongly denounced in 1874. Even when a request was made that we should be heard before Lord Dufferin's Privy Council by counsel, a hearing was denied to us.

* No. 27.

Nor was this violation of all precedent, and of our rights as British subjects, the end of the extraordinary excesses to which class legislation has been suffered to go in this case. The first intimation that the Act had received the Royal Assent, which was received by some of the proprietors in Great Britain and in this island, was the announcement that Mr. Childers had left England as a Commissioner to dispose of their property. We were suddenly called upon to appear before an inquisitorial Court, to answer to any or every technical question that could be raised, from quit-rents, escheat, fishery reserves, &c.

Ancient and (as we supposed) obsolete questions, which, so far as the law of the land and the good faith of the Crown could settle them, were long ago disposed of and buried, were dug up and brought into life. Everything that could tell against us was utilized; we were even made to suffer for the folly of which the Colonial Office was guilty more than a century ago, and which your Lordship recently described as the source of all this trouble. One thing is clear: the present owners of land here are perfectly innocent of any offence.

It would be an insult to Her Majesty's Government to assume that they share in the Communistic views of some of the Radical section of the Liberal party, that "property in land is a crime against society." Yet this is the very basis of this Act of spoliation, and is "the head and front of our offending." To own more than 1,000 acres of land is not tolerated by this Act, nor can any one own over 500 acres if it is held by tenants. There is even reason to fear that the unfortunate proprietor, under this Act, not only loses the excess over the amount specified, but also every foot of his property, and that he is liable to be deprived of his homestead, and to be turned out of house and home.

Your Lordship, as a landlord, must be aware that tenants in England frequently pay one-third of the proceeds of their farms as rent, or 33⅓ per cent. Ours pay only one-sixtieth of that amount, or a merely nominal rent-charge or from one-third to one-half of 1 per cent. English landlords give short leases; ours are nearly all for 999 years. English tenants are restricted from assigning their leases. With us leases can practically be disposed of as easily as goods and chattels.

Hundreds of acres are kept idle and unproductive in England; and the working classes are claiming (not without reason) that they should not be driven out of England because red deer are more valued by English landowners than the yeomanry of the country. No one can pretend for an instant to hint at such a charge against us. Not an acre is kept idle. Any person wishing to rent wild land can go from one end of the island to the other, and select whatever lot he prefers for his farm. There may be cases of oppression in Great Britain as respects the owners and occupiers of land. Not a solitary instance in the whole history of the island has been found of such hardship or oppression. The result of the system has been an amount of progress and prosperity in this island unequalled in any part of British America.

The population of Ontario per square mile is 17, here it is 44. The revenue per head in Ontario is 4*s*. 10*d*., here it is 1*l*. 3*s*. 4*d*. The secret, then, of this utterly uncalled-for piece of spoliation is to be found in the fact that the Legislature is returned by and avowedly represents the tenantry, and that the cheapest mode of buying political support is to preach a crusade against the rights of property.

Even our forbearance and liberality have been turned against us. In a time of scarcity we accepted 1*s*. island currency, with one-ninth added, in lieu of 1*s*. sterling. An Act was passed, declaring that 1*s*. sterling should be valued at 1*s*. island currency, with one-ninth added, a statute which confiscated one-fourth of our property. Year after year acts of spoliation were passed in the Legislature, and the press and the hustings were devoted to creating an agitation against us.

From 1852 to the present, nearly 300 days (or a working year) have been devoted by the Legislature to this favourite theme, while class legislation has closed the Courts against us, and made the collection of arrears as distasteful and as difficult as possible.

In 1860 several of us most unwisely agreed to the proposal of the British Government that a Royal Commission should settle the existing questions between landlord and tenant. Its suggestions were carried out in 1864, and the "Land Purchase Act of 1864" was passed, by which we gave up many thousands of pounds of arrears to buy peace, and to settle for ever all questions or disputes as to our property. The present Act is a glaring violation of that compact. Once more our generosity has been turned against us.

Those proprietors who refused to remit arrears, and who capitalized them by a

proportionate increase of rent, have reaped the benefit by having their interest valued by the increased rent.

We who, relying on the good faith of the Crown, remitted arrears, have not only lost the amount of them, but have also had our property depreciated by our not having increased our rent, which appears to have been the basis of valuation. Hitherto we have heard a good deal of the blessings of the British Constitution.

Such an outrage as that from which we have suffered, had this country been annexed to the United States, would have been an impossibility under the American Constitution. The present Act is probably the first on record that has made leniency on the part of a creditor a penal offence, and that has recognized and rewarded dishonesty on the part of the debtor. Our interest is to be valued by what we have received for the past six years. If we have been considerate and forbearing we pay the penalty. If we have exacted the uttermost farthing of rent we shall reap the reward.

After having, as we imagined, finally disposed of all the obsolete questions of the past century, by agreeing to the Land Act of 1864, we have been summoned before a tribunal which is specially instructed to go into these questions. The Royal Commission of 1860 have forcibly characterized such an outrage: "It could hardly be conceived that, with such views as these, Her Majesty could have ever intended to transfer to the local Government a power the exercise of which would have been in derogation of the faith and honour of the Crown. . . . If it were possible that any country could be found where, after a century, the possession of property could be disturbed for the non-performance of an absurd condition in the original grants, . . that country would cease to be regarded among the civilized communities of the world." My father, holding under a grant from the Crown, and relying on the good faith of the British Government, gave up a large sum of money due as arrears of rent in order to quiet his title. Having by the present Act been robbed of the price of that concession, and deprived of my property, I respectfully submit that the Home Government is in honour bound to reimburse me, if not for my property which has been sacrificed, at least for the large sum of money which was so fruitlessly surrendered by my father in 1864.

No statesman who does not willingly shut his eyes to the "signs of the times" can be blind to the fact that the landowners of Prince Edward Island are not the only persons who are destined to suffer from this piece of legislation. The Irish Tenants' Compensation Act was a firebrand cast among us that kindled an agitation which has resulted in the present act of spoliation.

The Land Purchase Commission has acted in the same spirit in which the Irish Encumbered Estate Act was carried out, as if a rack-rent system and a starving tenantry existed here, instead of the most prosperous body of yeomanry in the world, with farms practically freehold, except in being subject to a nominal rent-charge of 5*d.* to 9*d.* per acre.

An able ecclesiastic, whose thorough mastery of colonial questions is not unknown to the Colonial Office, has recently laid down a great truth, which, in connection with this Land Purchase Act and the spoliation of our property, may well afford materials for very serious reflection to the landowners and the privileged classes of England, viz., that "no one could have observed the course of the last thirty years without being fully convinced that the Colonies are assimilating the mother country to themselves, instead of the Colonies being assimilated to the mother country."

Imagine the result of Great Britain being "assimilated to the Colonies" in the matter of this Land Commission, and the same amount of justice being meted out to the landowners there which has been doled out to us in this country.

Let us suppose the working classes to have secured the franchise, and the House of Commons to have avowedly become their mouthpiece, instead of representing the property and the intelligence of the country. Imagine politicians buying support by preaching, year after year, a crusade against property, and denouncing all privileged classes, because millions of acres are kept locked up, and red deer and grouse are pampered and prized, while the bone and sinew of the country are driven away to the uttermost ends of the earth for a home.

Imagine such a Commission authorized to confiscate all properties exceeding 1,000 acres and all estates of more than 500 acres held by tenants. Imagine landowners being even denied a hearing when they wish to urge objections against the appointment of such a Commission, and their suddenly finding themselves summoned before an inquisitorial court, and forced to submit their titles, accounts, &c., to it, under a penalty

of imprisonment. Imagine the value of estates being depreciated by the argument that, as they have become valuable by labour, labour has the best title to the land. Communism, which has no palliation or excuse here, may find many plausible pleas for confiscation in England. Under these circumstances, I would suggest that the Crown should do nothing to countenance or justify this act which may hereafter raise it into a precedent. But to do so in this case would be a grevious breach of good faith on the part of the Crown. Your Lordship has traced the origin of all these troubles to the blunders of the Colonial Office a hundred years ago. The Royal Commission of 1860 felt so strongly on the subject that they urged, as some compensation to the people of the island and to the landowners, that the Imperial Government should give a guarantee for 100,000*l.* to buy out the estates of the Prince Edward Island proprietors. The suggestion was declined and we were made the scapegoats.

In order to buy peace we remitted thousands of pounds of arrears, and agreed for ten years to sell our farms at fifteen years' purchase. The assent by Lord Dufferin to the present Act, in spite of that compact, and with a haste which was a violation of all precedent, has thrown responsibilities on the Imperial Government which, I feel assured, they will not again refuse to recognize. A pure technicality of a most transparent chararacter has been urged here as a bar to any claims on our part against the Crown. Hitherto the Crown has been the safety of British subjects throughout the world against oppression, as unjust laws can be nullified by the refusal of the Royal Assent. It has been suddenly discovered that by the British North American Act our local Statutes are subject to the approval of the Governor-Ceneral "in Council," and that the addition of those words has deprived us of the protection of the Crown, and Her Majesty of her veto upon our acts, and of sovereignity over us, which has been practically transferred to the Earl of Dufferin. Such a technicality is as unfounded as it is discreditable, and were Her Majesty's Government to adopt it, the last end of Imperial rule in this island would even be worse than the first. Such a construction of the Act never was dreamed of by the loyal people of the Dominion. If, however, there has been an oversight in that Act, it has been corrected by a lucky oversight in the present Act. While the appointment of a Commissioner is clearly vested in the "Governor-General in Council," there is a provision, in Sections 2, 5, and 7, for "the assent of the Governor-General," *i.e.*, of Her Majesty's representative. If the assent has been given by him "in Council," *i.e.*, merely as the mouthpiece of the Canadian Cabinet, and not as the Queen's representative, the assent is invalid, and the proceedings under the Act could be anulled. I feel assured that Her Gracious Majesty, even if such a technicality were at hand, would never consent to avail herself of, and to surrender her sovereignty over, the people of this Island, not as a concession of freedom to Colonists, but as a mode of evading the obligations and responsibilities of the Crown.

Under these circumstances, I respectfully beg leave to urge either that Her Majesty shall refuse her assent to this Act, and should thereby annul all proceedings under it, or else that the British Government should consider the subject of compensating the proprietors for the loss of their arrears of rent in 1864, and the confiscation of their property under the "Land Purchase Act of 1875."

I need not apologize to your Lordship for writing so plainly and so strongly of this first attempt at Communism and its results, for I am persuaded that, as a member of a Conservative Cabinet, your Lordship, when fully aware of the facts of the case, will cordially sympathize with my views.

I have, &c.

(Signed) JAMES F. MONTGOMERY.

To the Right Hon. the Earl of Carnarvon,
Secretary of State for the Colonies.

No. 30.

The Earl of Carnarvon to Governor the Right Hon. the Earl of Dufferin, K.P., K.C.B.

My Lord, *Downing Street, December* 2, 1875.

I HAVE the honour to acknowledge the receipt of your Lordship's despatch of the 27th of October,* inclosing a letter addressed to me by Mr. James F. Montgomery, relating to the proceedings under the "Prince Edward Island Land Purchase Act, 1875."

I request that you will inform Mr. Montgomery, in reply to his letter, that just

* No. 29.

as a decision on any award is beyond the competence of the Secretary of State, so I consider that it would serve no useful purpose were I to enter upon a discussion, either of the principles on which the Commission constituted under the Act was appointed and made its awards, or of the merits of any particular case which came within its cognizance. I have, however, observed that, in opposition to the statements which have been made as to the harsh operation of the measure, it has also been represented in the press that the contrary has been the case.

I have, &c.
(Signed) CARNARVON.

No. 31.

Colonial Office to Lady Georgina Fane.

Madam, *Downing Street, December* 3, 1874.

I AM directed by the Earl of Carnarvon to acknowledge the receipt of your letter of the 25th November,* in which you renew your protest against the Land Purchase Act passed by the Legislature of Prince Edward Island.

His Lordship desires me to again express his regret that the great pressure of other business has delayed the Governor-General's decision on a matter which so nearly affects your interests. His Lordship has again communicated with Lord Dufferin, transmitting a copy of your letter, and as soon as his decision is known, it shall be communicated to you without delay.

I am, &c.
(Signed) ROBERT G. W. HERBERT.

No. 32.

The Earl of Carnarvon to Governor the Right Hon. the Earl of Dufferin, K.P., K.C.B.

My Lord, *Downing Street, December* 3, 1874.

I INCLOSE herewith a copy of a further letter which I have received from Lady Georgina Fane,* protesting against the Land Purchase Act passed by the Legislature of Prince Edward Island.

I am aware that I need not remind you that it will be convenient that your decision as to the allowance or disallowance of this Act should be announced with as little delay as possible.

I have, &c.
(Signed) CARNARVON.

No. 33.

Governor the Right Hon. the Earl of Dufferin, K.P., K.C.M.G., to the Earl of Carnarvon.—
(*Received January* 15.)

My Lord, *Government House, Ottawa, December* 29, 1874.

WITH reference to the correspondence that has taken place on the subject of a Bill passed by the Legislature of Prince Edward Island, intituled "The Land Purchase Act, 1874," I have the honour of transmitting herewith, for your Lordship's information, a copy of an Order in Council approving a Report by the Minister of Justice advising me not to assent to the Bill in question.

I have, &c.
(Signed) DUFFERIN.

Inclosure in No. 33.

Report of a Committee of the Honourable the Privy Council, approved by his Excellency the Governor-General on the 26th day of December, 1874.

THE Committee of Council have had under consideration the Report dated 23rd December, 1874, from the Honourable the Minister of Justice, to whom was referred a Bill passed by the Legislature of the Province of Prince Edward Island at the Session thereof held in the early part of this present year, and intituled, "The Land Purchase

* No. 23.

Act, 1874," which Bill was reserved for the signification of your Excellency's pleasure thereon.

The Committee, under all the circumstances of the case, as set forth in the said Report, submit their concurrence in the recommendation of the Minister of Justice, and advise that the Bill so reserved do not receive the assent of your Excellency in Council.

Certified,
(Signed) W. A. HIMSWORTH,
Clerk, Privy Council.

Department of Justice, Ottawa, December 23, 1874.

THE Undersigned has the honour to report:—

That, at the Session of the Legislature of Prince Edward Island, held in the early part of this present year, a Bill was passed by both Houses, intituled, "The Land Purchase Act, 1874," which was reserved by the Lieutenant-Governor for the signification of your Excellency's pleasure.

Its objects are foreshadowed in the recitals thereto, which are:—

"1st. That the leasehold tenures of this island have long been a subject of contemplation, and have proved seriously detrimental to the prosperity of this province, and to the contentment and happiness of its people.

"2ndly. That it appears from correspondence which has recently taken place between the Government of this island and certain proprietors, that there is no reasonable hope of the latter voluntarily selling their township lands to the Government at moderate prices.

"3rdly. That it is very desirable to convert the leasehold tenures into freehold estates on terms just and equitable to the tenants, as well as to the proprietors."

It provides that the Colonial Secretary shall notify any proprietor owning 500 acres of land or upwards that the Government of the province intend to purchase his land under the provisions of the Act, after which the Government and proprietor shall each nominate a Commissioner to award the amount of money, and they are jointly to nominate a third Commissioner.

The Act provides the necessary machinery for carrying such arbitration into effect, and provides further, as follows:—

"Section 23. After hearing the evidence adduced before them, the Commissioners, or any two of them, shall award the sum due to such proprietors as compensation or price to which he shall be entitled by reason of his being divested of his lands and all interest therein and thereto.

"Section 24. The fact of the purchase or sale of the lands of any proprietor being compulsory and not voluntary, shall not entitle any such proprietor to any compensation by reason of such compulsory purchase or sale, the object of this Act being to pay every proprietor a fair indemnity or equivalent for the value of his interest, and no more."

And by the 25th Section are regulated the circumstances which are to be taken into consideration by the Commissioners in estimating the amount of compensation to be paid to the proprietors.

Under the 29th section the Lieutenant-Governor in Council is to nominate a Public Trustee, who, when the purchase-money of the property shall have been paid into the Treasury, is to execute a conveyance of the estate of the proprietor to the Commissioner of Public Lands, which shall thereby vest in the Commissioner of Public Lands an absolute and indefeasible estate of fee simple, free from all incumbrances of every description, and shall be held and disposed of by him as public lands, and shall also vest in the Commissioner of Public Lands all arrears of rent due upon the said lands.

It further provides—

"Sec. 34. When the full sum for any lands shall have been paid into the Treasury, and the conveyance executed by the Public Trustee to the Commissioner of Public Lands, the Government shall be absolutely exonerated from all liability to any person or persons whomsoever who may claim any estate so conveyed as aforesaid, or any interest therein, except as is mentioned in the next section.

"Sec. 44. After the passing of this Act no action at law shall be maintained by any proprietor for the recovery of more than the current and subsequent years' rent; and in case any such action is brought against any such tenant by any proprietor, such tenant may plead this Act in bar of such action, nor shall any execution issue on

any judgment recovered, or to be recovered, for rent by any proprietor against any tenant in this island, excepting the current and subsequent accruing years' rent; and, in case any such execution is issued, the Supreme Court or a Judge thereof shall, on application, stay any such execution until the award of the said Commissioners shall be made."

2. In transmitting this reserved Bill the Lieutenant-Governor forwards therewith certain documents.

The reasons which induced the Lieutenant-Governor to reserve the Bill are given by him as follows:—

"The Act in question affecting private rights, by enforcing a compulsory sale by proprietors of 500 acres of land or upwards, at prices to be determined under a system of arbitration, to which they are thereby compelled to be parties, I deemed it to be my duty to reserve it for the consideration of his Excellency the Governor-General.

"For upwards of half a century 'the land question,' so called, has agitated the minds of the people of this Province, and repeated attempts have been from time to time made by the local Legislature to get rid of the leasehold system prevalent here, and the aid of the Imperial Government has been frequently invoked for that purpose, by endeavouring to obtain its sanction to the establishment of a Court of Escheat, on the ground of the non-fulfilment by the grantees of the conditions of their grants from the Crown, but to which Her Majesty's Government invariably refused to accede.

"In 1860 three Commissioners were appointed to inquire into and adjust 'the differences between landlord and tenant;' the then proprietors, or a major part of them, were assenting parties to this Commission; one Commissioner was selected by the Secretary of State for the Colonies, a second by the proprietors, and a third by the local Legislature. Their Report and award, characterized by the late Duke of Newcastle, then Secretary of State for the Colonies, as 'able and impartial,' was set aside, because the Commissioners thereby devolved the duty of assigning the value of township lands, which they should have performed themselves, upon other parties not recognized by the submission.* A copy of the Commissioners' Report and award accompanies the reasons of the Attorney-General, marked No. 1, and to this I beg to refer his Excellency the Governor-General, affording, as it does, a complete history of the land question from the year 1767 to the date of the Report.

"The desire, finally, to extinguish the leasehold system, so far as relates to lands still in the hands of the proprietors, continues unabated; in fact, it has received a fresh impetus since confederation, in view of the sum of 800,000 dollars appropriated by the Dominion Government for the purchase of the proprietary rights in this Province."

The Report of Mr. Attorney-General Brecken, briefly referring to the same matters as mentioned in the despatch of the Lieutenant-Governor, quotes particularly from the despatch of the 13th March, 1869, from the then Secretary of State for the Colonies, to the effect that, if confederation of Prince Edward Island with Canada were to ensue, the land question should be left as far as possible for the decision of those who under the altered circumstances of the Colony would have to carry into execution any measures connected with it.

The Attorney-General further adds, that the local Government is led to believe that there is no reasonable prospect of some of the owners of township lands voluntarily disposing of their estates at moderate prices, and that others of them are not at all desirous of permitting their tenants to become freeholders.

Impelled by the peculiar circumstances of the case, and strengthened by the despatch of Earl Granville above alluded to, the Legislature had passed the Act with the hope that it might be the means of settling for ever this long agitated question on terms just and liberal as well to the proprietors as to the tenants.

The Lieutenant-Governor also transmits copies of correspondence between the Local Government and certain proprietors of lands and their agents on this subject. The views of the different proprietors as to parting with the property vary, but the tenor shows generally an indisposition on the part of the proprietors to dispose of their properties, whilst in some instances they ask that a definite offer should be made to them.

There is also a statement submitted showing the names of the proprietors, their residences, and number of acres owned by each, and the quantity of land owned by small freeholders, the former being 381,720 acres, and the latter 221,000 acres.

There is also a statement showing the quantity of land already purchased under

* *Sic.*

the authority of a previous local Act, being in the aggregate 457,270 acres, at an aggregate amount of 517,951 dollars; and a further purchase under an Act passed 28 Vic. of nearly 7,000 acres. These purchases, however, appear to have been all made with the assent of the proprietors.

With the Lieutenant-Governor's despatch are certain memorials of proprietors, praying that the Act may not be allowed. These have been since supplemented by memorials furnished either to the Secretary of State for the Colonies, and transmitted by him, or direct to your Excellency.

3. The documents transmitted by Mr. Attorney-General Brecken show the transmission, by the Duke of Newcastle, in February, 1862, to the Lieutenant-Governor, of a copy of a Report of the Commissioners appointed to inquire into the land tenures of Prince Edward Island, together with the copy of the Report, which embraces a very full consideration of the whole circumstances, the same bearing date 18th July, 1861.

As before mentioned, however, nothing was done upon this report.

In 1864 a deputation from the Government of Prince Edward Island proceeded to England, when certain correspondence ensued between the Duke of Newcastle and themselves, and it appears that Sir Samuel Cunard proposed terms, and submitted a draft Bill, which he thought would bear out the matter. These, however, equally led to the absence of any result.

In 1868 the matter was again brought forward by the Lieutenant-Governor submitting a Minute of the Executive Council, and praying the sanction of the Secretary of State to the measure which might obtain a settlement of this question, in reply to which the Duke of Buckingham and Chandos stated that he "fully recognized the propriety of the course which the Executive Council have taken in seeking to obtain the sanction of the Secretary of State, before introducing a measure which would naturally tend to raise in the minds of the people expectations with which, in the result, it might be deemed inexpedient to comply.

"I make the recognition the more fully, because, after a careful consideration of the whole case and of the grounds now put forward by the Executive Council in support of a law for the compulsory sale of the land of those proprietors who were not parties to the Act of 1864, I am not prepared to advise Her Majesty to sanction such a measure.

"The views of former Secretaries of State upon this subject, and the grounds upon which such views were based, have been so clearly explained in prior correspondence that it appears to me unnecessary to do more now than to state that I find no special reason assigned in the Minute of Council which, in my opinion, would justify, on the ground of public policy, the proposed direct appropriation of private property."

In February 1869 correspondence was renewed between the Lieutenant-Governor of Prince Edward Island and the Imperial Government, which led to the remarks of Lord Granville, previously quoted, to the effect that decision as to the land question should be left to those who, under the altered circumstance of the Colony, by confederation, if it were carried out, would have to carry into execution any measures connected with it.

4. Several petitions are presented against the allowance of this Bill, some, as above stated, having been sent to the Secretary of State for the Colonies, and others direct to your Excellency. In transmitting one presented in England, Lord Carnarvon requests the careful consideration of your Excellency's Ministers in respect to it. They submit that the proposed Act is subversive of the rights of property, and that it will prove most ruinous to proprietors in the Colony, and a dangerous precedent to establish as a mode of allaying popular agitation. After entering upon details of the past, they submit that the Act is without a precedent in the history of legislation, and that even if it were called for, as constitutional as respects its objects, the mode of procedure adopted by it would prove most ruinous and harassing to the owners of property in that island. They allege that the Government, which is practically irresponsible, as it cannot be sued in a Court of Law, might hold this Act over the unfortunate proprietor, who cannot force on the proceedings when once commenced, nor obtain compensation or costs when such proceedings have been abandoned, and they dispute the recitals to the Act and pray for the disallowance of the same.

The other petitions allege various reasons in respect to which they, as proprietors and British subjects, would be much injured and damnified if the Act passed.

The allegations in these petitions are very forcibly urged, and represent features which cannot but be regarded as contrary to the principles of legislation in respect to private rights and property.

The Undersigned is of opinion that the Act is objectionable, in that it does not

provide for an impartial arbitration, in which the proprietors would have a representation for arriving at a decision on the nature of the rights and the value of the property involved, and also securing a speedy determination and settlement of the matters in dispute.

Under all the circumstances of the case, the Undersigned has the honour to recommend that the Bill so reserved, intituled "The Land Purchase Act, 1874," do not receive the assent of your Excellency in Council.

(Signed) H. BERNARD,
Deputy Minister of Justice.

I concur,
(Signed) T. FOURNIER, *Minister of Justice.*

No. 34.

Governor the Right Hon. the Earl of Dufferin, K.P., K.C.B., to the Earl of Carnarvon.—
(Received January 15, 1875.)

My Lord, *Government House, Ottawa, December* 31, 1874.

IN reference to your Lordship's secret despatch of the 2nd November,* I have the honour to state that immediately the Prince Edward Island Land Purchase Bill was communicated to me, and that I had mastered its contents, I informed the Prime Minister that, in my opinion, its provisions were objectionable, and that I should decline assenting to it.

2. Mr. Mackenzie offered no opposition to this announcement, and it became the duty of the Ministerial department concerned in such matters to communicate my decision to the local Government, and I had every reason to believe that this had been done in the usual manner. It would appear, however, from the petitions forwarded from England, that some misapprehension has arisen at home in regard to the fate of the Bill.

3. I have, therefore, called Mr. Mackenzie's attention to the point, and an order in Council has been passed upon the recommendation of the Minister of Justice, under which my Responsible Advisers formally recommend the disallowance of the Bill in question.

4. The absence of Mr. Laird, the Secretary of State, and the Representative of Prince Edward Island in the Cabinet, for some months, on a mission to the Indian tribes in the north-west, may account perhaps for the tardy action of my Ministers with regard to this matter.

5. I have every reason to hope that my Government will be disposed to consider favourably the suggestion contained in your Lordship's despatch for the appointment of a Commission of Arbitration to settle the long-standing disputes with regard to proprietary rights in Prince Edward Island, and in a short time I hope to be in a position to communicate further with your Lordship on the subject.

I have, &c.
(Signed) DUFFERIN.

No. 35.

Colonial Office to Messrs. Frere and Co.

Gentlemen, *Downing Street, January* 19, 1875.

I AM directed by the Earl of Carnarvon to acquaint you, as solicitors of the late Lady Georgina Fane, that his Lordship has been informed by the Governor-General of Canada that the Governor-General has been advised by his Ministers not to assent to the Bill of the Legislature of Prince Edward Island, entitled "The Land Purchase Act, 1874."

I am, &c.
(Signed) W. R. MALCOLM.

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* No. 21.

No. 36.

Colonial Office to Viscount Melville.

My Lord, *Downing Street, January* 19, 1875.

WITH reference to the Memorial signed by yourself and other proprietors of land in Prince Edward Island in June last,* protesting against the Bill passed by the Legislature of that island, intitled "The Land Purchase Act, 1874," I am directed by the Earl of Carnarvon to acquaint you that he has been informed by the Governor-General of Canada that the Governor-General has been advised by his Ministers not to assent to the Bill.

The names of the other persons who signed the Memorial against the Bill are noted in the margin,† and as this Department has not been furnished with their addresses, Lord Carnarvon desires me to request that you will have the goodness to communicate to them the information contained in this letter, if it is in your power to do so.

I am to add that Messrs. Frere & Co., the solicitors of the late Lady Georgina Fane, have been informed of the decision arrived at by the Canadian Government.

I am, &c.

(Signed) W. R. MALCOLM.

No. 37.

The Earl of Carnarvon to Governor the Right Hon. the Earl of Dufferin, K.P., K.C.B.

My Lord, *Downing Street, January* 27, 1875.

I HAVE the honour to acknowledge the receipt of your despatch of the 29th of December,‡ inclosing a copy of an order of the Canadian Privy Council approving a Report by the Minister of Justice advising you not to assent to the "Prince Edward Island Land Purchase Bill, 1874."

I have, &c.

(Signed) CARNARVON.

No. 38.

The Earl of Carnarvon to Governor the Right Hon. the Earl of Dufferin, K.P., K.C.B.

My Lord, *Downing Street, January* 27, 1875.

I HAVE the honour to acknowledge the receipt of your despatch, Secret, of the 31st of December,§ informing me of the steps taken by you with regard to the "Prince Edward Island Land Purchase Bill, 1874."

I am glad to learn that your Government are likely to accede to the proposal contained in my despatch of the 2nd of November,‖ for the appointment of a Commission of Arbitration to settle this long-standing question.

I have, &c.

(Signed) CARNARVON.

No. 39.

Governor the Right Hon. the Earl of Dufferin, K.P., K.C.B., to the Earl of Carnarvon.

My Lord, *Government House, Ottawa, May* 14, 1875.

SOON after the Province of Prince Edward Island entered the Confederation of the Dominion of Canada, my attention was drawn by the Earl of Kimberley to the long-pending questions connected with the land tenure in that island; and to an Act that had passed the Local Legislature in the early part of 1873, before the Union, entitled "An Act to alter and amend the Tenants' Compensation Act, 1872."

* No. 14.

† C. A. Sulivan, G. Graham Montgomery, W. Stewart (for self and sister), M. M. Fanning, Lieutenant-Colonel B. Cumberland, M. T. Cumberland, and John MacDonald.

‡ No. 33. § No. 34. ‖ No. 21.

2. In a subsequent despatch the Earl of Kimberley requested that he might be furnished with an authenticated transcript of the Act in question, which was forwarded on the 25th of November of that year.

3. On the 12th of February I was informed that the Act had been specially confirmed by Her Majesty in Council on the 2nd of that month.

4. The purport of this Act was to secure compensation to evicted tenants, but it does not appear to have been regarded by those in whose interest it was framed as a final settlement of the land question, for a further Bill was passed during the Legislative Session of 1874, entitled "The Land Purchase Act," having for its object the conversion of all the leasehold tenures in the island into freehold estates.

5. This Bill, like the former enactments, was reserved by the Lieutenant-Governor, and was eventually disallowed by me on the advice of my Ministers, for the reasons set forth in a Report from the Minister of Justice, a copy of which was communicated to your Lordship in my despatch of the 29th of December.*

6. In announcing to the Prince Edward Island Administration the fate of their recent measure, my Government took the opportunity of intimating, unofficially, that although they recognized the perfect right of the Island Legislature to pass an Act empowering the Province, in what it might conceive to be the interest of the public at large, to acquire by purchase the whole or any part of the estates of the existing landlords, yet that such an operation could only be effected on condition that the owners were paid a fair and proper price for the properties about to be acquired, and that probably the best machinery for appraising their value would be an independent Commission, of which one member might be appointed by the Prince Edward Island Government, another by the landed proprietors, and the third by the Governor-General in Council, who would naturally be anxious to select some person in whose ability, judgment, and impartiality perfect confidence might be placed by all parties.

7. In accordance with these suggestions, a Bill, entitled "The Land Purchase Act of 1875," was framed by the Prince Edward Island Government, with provisions for the erection of a Land Court constituted in the foregoing manner. This Act has now passed both Houses of the Provincial Legislature, and my Responsible Advisers recommend that it should receive the Royal Assent.

8. In view of the vast importance of the interests at stake, a very great weight of responsibility will be imposed upon my Government in the selection of the person who is to act as the nominee of the Governor-General in Council on the proposed Commission. Although undoubtedly the operation contemplated by the Act is within the competence of the Provincial Legislature, and although the Act itself contains no clauses sufficiently obnoxious to justify its disallowance by the Central Authority, it is, nevertheless, a measure of a very stringent character, and unless the provisions introduced into it for the protection of the landowners, and for the proper valuation of their estates, are carried into effect with impartiality and intelligence, it might be productive of great hardship to many individuals. Under these circumstances my Government considers itself very fortunate in having been able to secure, as the Dominion Commissioner, the services of an English gentleman of the highest character, experience, and ability, the Right Honourable Hugh Childers, M.P., whose proposed nomination to the Prince Edward Island Land Court of Arbitration, as soon as the Act shall have received the Royal Assent, I have now the honour of communicating to your Lordship.

9. In this opinion I need not say I heartily coincide, for, considering that a very large number of the Prince Edward Island proprietors are resident in England, it could hardly have been expected that the appointment of a Canadian Commissioner would have been satisfactory to them. On the other hand, the important engagements at home of most Englishmen of public standing and reputation almost precluded the hope of securing the assistance of such a person as would be duly qualified to undertake the responsible duties attaching to so important an arbitration. Circumstances, however, have happily placed Mr. Childers in a position to comply with the invitation of my Government, and I have no doubt that his familiarity with all questions relating to the tenure of land, his great ability, high character, and legal knowledge, will enable him to discharge the onerous duties he has undertaken as much to the satisfaction of those concerned as can be expected in such a case.

10. It is to be regretted that Mr. Childers will not be able to remain in the island beyond the first week in September. I have no doubt, however, that the English proprietors will be sufficiently convinced of the advantage of having their several

* No. 33.

causes dealt with while Mr. Childers is still a member of the Commission as to induce them to refrain from throwing any technical obstacles in the way of the speedy constitution of the Court, in which event there is every reason to expect that the valuation of the principal estates held by English proprietors will be adjudicated upon under Mr. Childers' auspices.

11. On his departure it will become necessary for my Government to nominate a successor, and I make no doubt that the greatest possible care will be taken in the selection of this gentleman, who will find the machinery of the Court already in working order, and will have the advantage of the guidance afforded by the precedents established in the cases already dealt with.

I have, &c.
(Signed) DUFFERIN.

No. 40.

Governor the Right Hon. the Earl of Dufferin, K.P., K.C.B., to the Colonial Office.

Sir, *Almond's Hotel, Clifford Street, London, June* 28, 1875.

I BEG to acknowledge the receipt of the despatch of the 26th of June,* inclosing copy of a letter from Mr. F. C. Morgan, M.P.,† and also a copy of Mr. S. T. Evans' Memorial protesting against the "Land Purchase Act of 1875."

I have also to acknowledge a copy of the answer which has been sent to Mr. Morgan.‡

I have, &c
(Signed) DUFFERIN.

No. 41.

The Officer administering the Government to the Earl of Carnarvon.

My Lord, *Halifax, July* 5, 1875.

I HAVE the honour to inform you that, in accordance with the provisions of the 7th Clause of the "Land Purchase Act, 1875," recently passed by the Legislature of Prince Edward Island, I have this day, by the advice of my Privy Council, of whose Report I inclose a copy, appointed the Right Honourable Hugh C. E. Childers, M.P., to be second Commissioner for carrying into effect the purposes of the Act.

I have, &c.
(Signed) WM. O'G. HALY, *Lieutenant-General.*

Inclosure in No. 41.

Report of a Committee of the Honourable the Privy Council, approved by his Excellency the Administrator of the Government on the 5th of July, 1875.

ON the recommendation of the Honourable Mr. Scott, the Committee advise that, under the provisions of the 7th clause of the Act passed by the Legislature of the Province of Prince Edward Island, and known as "The Land Purchase Act, 1875," and to which the assent of your Excellency in Council has been given, the Right Honourable Hugh Cullen Eardley Childers, M.P., be appointed the second Commissioner for all the purposes of the said Act.

Certified,
(Signed) W. A. HIMSWORTH,
Clerk, Privy Council.

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* No. 25. † No. 24. ‡ No. 26.

No. 42.

Governor the Right Hon. the Earl of Dufferin, K.P., K.C.B., to Colonial Office.

Sir, *Almond's, Clifford Street, W., London, July* 13, 1875.

I BEG leave to acknowledge the receipt of your letter of the 10th of July,* and to inform you, in reply, that I have complied with the suggestions it contained, and have forwarded the telegram of which the draft was so obligingly sent to me.

I have, &c.

(Signed) DUFFERIN.

Inclosure in No. 42.

Telegram from Lieutenant-Governor of Prince Edward Island to the Earl of Dufferin.

WILL appoint Provincial Commissioner 15th, and issue notices under Section 2. Am advised injudicious for local Government recommend proprietors any mode selecting their Commissioners, also impossible for Court Commissioners meet early as 9th August, or to say when as proprietors under 11th section have sixty days to name Commissioners after notification under 3rd section. Crown Officers' attention forthwith called to 14th section, also rules of Court under 45th section. Letter, 12th June, received all right.

No. 43.

The Officer administering the Government to the Earl of Carnarvon.—(Received July 23.)

My Lord, *Halifax, Nova Scotia, July* 12, 1875.

I HAVE the honour to transmit to you herewith a printed copy, certified by the Attorney-General of Prince Edward Island, of an Act, entitled the "Land Purchase Act, 1875," which was passed by the Legislature of that Province in its last Session.†

To this Act I have given my assent, in accordance with the advice tendered to me by my Council in a Memorandum of which I have also the honour to inclose a copy.

I have, &c.

(Signed) WM. O'G. HALY, *Lieutenant-General.*

No. 44.

The Officer administering the Government to the Earl of Carnarvon.—(Received July 23.)

My Lord, *Halifax, Nova Scotia, July* 13, 1875.

I HAVE the honour to forward, herein inclosed, a Memorial addressed to Her Majesty the Queen, which has been to-day received by me, in which the resident proprietors of township lands in Prince Edward Island pray that Her Majesty may be pleased to disallow the Act passed at the last Session of the Legislature of that Province, entitled the "Land Purchase Act, 1875."

I have, &c.

(Signed) WM. O'G. HALY, *Lieutenant-General.*

Inclosure in No. 44.

Memorial.

To Her Most Gracious Sovereign Majesty the Queen.

The Humble Memorial and Petition of the Undersigned Proprietors of Township Lands in Prince Edward Island,

Most humbly and respectfully sheweth—

THAT a Bill, intituled "The Land Purchase Act, 1875," has been passed by the Legislative Assembly and Council of Prince Edward Island, and your Memorialists are

* Not printed. † Vide Appendix No.

informed has been assented to by his Excellency the Administrator of the Government of the Dominion of Canada, in the absence of his Excellency the Governor-General.

That the said Bill embodies a most unconstitutional principle, and is oppressive and unjust to your Memorialists; that it is utterly destructive of the rights and property of your Memorialists, to the protection of which they know of no reason why they should be deprived.

That this Bill, by the instrumentality of a Commission to be appointed summarily, deprives your Memorialists of the use and occupation of their estates; gives the power to a certain official called the "Public Trustee," to execute conveyances of their property, by which it is at once taken from them and vested in the Provincial Commission of Crown Lands; deprives your Memorialists of all power of receiving existing arrears of rent; and places them entirely at the mercy and discretion of the Commission, which Commission, in its proposed power of fine and imprisonment, reproduces to a considerable extent the worst features of the Star Chamber.

That the Local Government of this Island having for many years past laboured most perseveringly to reduce the value of your Memorialists' property by class-legislation of great injustice by placing every obstacle in the way of your Memorialists receiving their rents and by inciting and encouraging an agitation on agrarian and Communistic principles against the rights of your Memorialists, have now consummated their work by an act of open and sweeping confiscation, against which, as a last resource, we now humbly pray and petition the Queen's Majesty.

That the said Bill is in many respects as objectionable, and in some respects more injurious, to the interests of your Memorialists than was a Bill passed by the Local Government in the year 1874, which said Bill was disallowed by the Governor-General, on the ground that it was unfair and unjust to your Memorialists.

That in the neighbouring provinces there are estates of many thousand acres held by individuals and bodies corporate without hindrance or objection hitherto, and that to such vested interests, as well as all vested interests in every part of your Majesty's Dominions, the Bill now petitioned against is a most dangerous precedent.

That the destruction by this Bill of the common right of appeal from any decision of the proposed Commission, however absurd, unjust, or illegal its decisions may be, is unconstitutional and very cruel. The traitor or the felon convicted of the greatest crimes is permitted to appeal to your Majesty. We, whose only crime it is that we are possessed of lands in Prince Edward Island, are debarred from exercising that right which the Constitution of our country freely awards to the greatest criminals.

That the appointment of one arbitrary Commissioner by the Dominion of Canada, and one by the Local Government of this island, is in effect giving two Commissioners opposed to the proprietors, while there is to be but one in their behalf.

For the above, and for many other reasons detailed in Memorials to his Excellency the Governor-General, your Memorialists now petition and humbly pray that your Majesty will be pleased to disallow the "Land Purchase Act, 1875."

And your Memorialists, as in duty bound, will ever pray.

(Signed) ROBERT BRUCE STEWART, Proprietor of Townships No. 7, 10, 12, 30, and part of Townships No. 27, 46, and 47.
WM. CUNDALL, Proprietor of part of Township No. 20.
W. J. CUNDALL, Proprietor of part of Townships No. 20 and 24.
JAMES F. MONTGOMERY, Proprietor of part of Township No. 34.
JOHN A. McDONELL, Proprietor of part of Township No. 35.
JAMES P. DOUSE, Proprietor of part of Lot 31.
WILLIAM DOUSE, Proprietor of part of Lot 31 (per James P. Douse).
JOHN DOUSE, Proprietor of part of Lot 31 (per James P. Douse).
HENRY C. DOUSE, Proprietor of part of Lot 31 (per James P. Douse).
G. W. DE BLOIS, Owner of part of Lot 28.

Charlotte Town, Prince Edward Island,
July 10, 1875.

No. 45.

The Earl of Carnarvon to the Officer administering the Government.

Sir, *Downing Street, September* 3, 1875.

I HAVE the honour to acknowledge the receipt of your despatch of the 12th of July,* inclosing a certified copy of an Act passed by the Legislature of Prince Edward Island, entitled "The Land Purchase Act, 1875," and informing me that you had given your assent to this Act in accordance with the advice of your Privy Council.

I have, &c.
(Signed) CARNARVON.

No. 46.

The Earl of Carnarvon to the Officer administering the Government.

Sir, *Downing Street, September* 3, 1875.

I HAVE the honour to acknowledge the receipt of your despatch of the 13th of July,† forwarding a Memorial addressed to the Queen, signed by several resident proprietors of township lands in Prince Edward Island, praying that Her Majesty may be pleased to disallow the Act passed by the Legislature of Prince Edward Island, entitled "The Land Purchase Act, 1875," to which you gave your assent, as reported in your despatch No. 27 of the 12th of July.*

I have also received a duplicate of this Memorial through the Lieutenant-Governor of Prince Edward Island.

I request that you will be so good as to inform the Memorialists that their petition has been laid before the Queen, but that I have not felt myself at liberty to advise Her Majesty to interfere in the course taken in regard to this Act by the Officer Administering the Government of Canada.

I have, &c.
(Signed) CARNARVON.

No. 47.

The Officer administering the Government to the Earl of Carnarvon.

My Lord, *Halifax, September* 6, 1875.

I HAVE the honour to inform you that Mr. Childers, the intelligence of whose appointment to be Second Commissioner in the Arbitration instituted under the Prince Edward Island Land Act, I communicated to your Lordship in my despatch of July 5,‡ has, I regret to say, as he anticipated at the time he accepted the office, found himself unable to act after the first week in the present month, and has requested in a letter of the 4th instant§ to be relieved of his duties from that date.

I hope before long to be in a position to convey to your Lordship some account of the services which Mr. Childers has rendered upon the Commission, and of the results which that body has so far been enabled to arrive at.

I have, &c.
(Signed) WM. O'G. HALY, *Lieutenant-General.*

No. 48.

The Officer administering the Government to the Earl of Carnarvon.

My Lord, *Halifax, September* 9, 1875.

WITH reference to my despatch of the 6th instant,‖ informing you that Mr. Childers had been unable to continue his services as Second Commissioner in the Prince Edward Island Land Arbitration, I have now the honour to inclose to your Lordship a copy of a Minute of my Privy Council recording the advice, upon which I

* No. 43. † No. 44. ‡ No. 41. § Not printed. ‖ No. 47.

have acted, that the Honourable Mr. Lemuel Allan Wilmot, of Fredericton, New Brunswick, formerly a Judge, and latterly Lieutenant-Governor of New Brunswick, should be appointed to fill the office vacated by Mr. Childers.

I have, &c.

(Signed) WM. O'G. HALY, *Lieutenant-General.*

Inclosure in No. 48.

Report of a Committee of the Honourable the Privy Council, approved by his Excellency the Administrator, September 9, 1875.

ON a Memorandum dated 3rd September, 1875, from the Honourable Mr. Mackenzie, reporting that by Order in Council of the 5th July, the Honourable Hugh Cullen Eardley Childers, M.P., was appointed a Second Commissioner for the purposes of an Act of the Legislature of the Province of Prince Edward, Island known as "The Land Purchase Act, 1875."

That Mr. Childers has communicated his incapacity further to act as such Commissioner, Mr. Mackenzie therefore recommends, under the authority of the 8th section of the said Act, that the Honourable Lemuel Allan Wilmot, of Fredericton, New Brunswick, be nominated and appointed as the successor of Mr. Childers in such office, and as the Second Commissioner for the purposes of "The Land Purchase Act, 1875," of the Legislature of Prince Edward Island.

The Committee submit the above recommendation for your Excellency's approval.

Certified.

(Signed) W. A. HIMSWORTH,

Clerk, Privy Council.

No. 49.

The Officer administering the Government to the Earl of Carnarvon.

My Lord, *Halifax, September* 16, 1875.

IN accordance with the hope which I expressed in my despatch of the 6th instant,* that I might before long be enabled to lay before your Lordship some account of the proceedings of the Prince Edward Island Land Purchase Commission, during the period for which Mr. Childers acted upon it as Second Commissioner, I have now the honour to inform your Lordship that the Lieutenant-Governor of Prince Edward Island, in a despatch addressed to the Secretary of State for Canada has expressed a very high opinion of the services rendered by Mr. Childers, whose ability, energy, and impartiality are characterized as most conspicuous throughout the work in which he was engaged.

The Commission commenced to sit upon the 16th of August last, and closed its proceedings, owing to the inability of Mr. Childers to act further, upon the 3rd of September following, having adjudicated during that period upon the claims of ten proprietors, and having been composed, in the adjudication upon the claims of the first two, of Mr. H. C. E. Childers appointed by the Governor-General in Council, Mr. John Theophilus Jenkins, appointed by the Lieutenant-Governor in Council, and Mr. Jedediah Slason Carvell, as Third Commissioner, appointed by the two proprietors whose claims were under consideration; while in the adjudication upon the eight claims subsequently dealt with, Mr. Robert Grant Haliburton acted throughout as Third Commissioner, representing in turn each proprietor.

The Commission having disposed of these claims adjourned until the 11th of October.

I inclose for your Lordship's information a statement exhibiting in a compendious form the result of the proceedings here recorded, in which is tabulated the number of acres allowed by the Commission as the property of each proprietor, the rate per acre at which the property was valued, and the aggregate amount awarded as an equivalent for it.

Your Lordship will learn, I believe with much satisfaction, that in eight out of the

* No. 47.

ten complicated and important cases thus decided the award made was concurred in by all the Commissioners.

I have, &c.

(Signed) WM. O'G. HALY, *Lieutenant-General.*

Inclosure in No. 49.

TABULAR Statement, with reference to showing the number of acres allowed to each Proprietor, and the rate per acre and aggregate amount awarded him.

Name.	Leased.	Unleased.	Total.	Price.	Rate per Acre.
				Dols.	D. c.
William Cundall	2,844	..	2,844	9,200	3 23
Eliza M. Cundall	1,455	..	1,455	4,450	3 06
C. A. Sulivan	44,387	21,602	65,989	81,500	1 23
Robert B. Stewart	38,018	28,674	66,692	76,500	1 14
Sir G. G. Montgomery	5,610	..	5,610	12,400	2 21
Hon. Ponsonby Fane	8,653	5,847	14,500	21,200	1 46
Lord Melville	11,310	300	11,610	34,000	2 92
Jas. F. Montgomery	5,512	..	5,512	15,200	2 77
Captain B. H. Cumberland	6,216	..	6,216	31,900	5 13
Miss Fanning	7,271	..	7,271	20,200	2 77
Total	131,276	56,423	187,699	306,550	

(Signed) FREDERICK BRECKEN, *Attorney-General.*

APPENDIX.

No. 1.

CAP. IX.

The Tenants' Compensation Act, 1871.

[*Passed April* 17, 1871.]

Preamble.

WHEREAS upon several township lands in this island leases have been granted to tenants of lands in a wilderness state for short terms of years, or at will in some instances, by indentures of lease or memoranda of agreements, and in others by verbal agreements, such lands having been at the commencement of such tenancies entirely in a wilderness or uncultivated state, and without any buildings or improvements of any kind, and without any allowance having been made by the lessor in such lease or agreement to the lessee, in consideration of such improvements made by clearing the forest, fencing, erecting buildings, draining, or otherwise, for the culture of the soil, in case of the determination of the tenancy, by the expiration of the term reserved in the said indentures of lease, or the termination of such tenancies at will, or other tenancies, and such improvements pass to the landlord without any compensation to the tenants therefor. Be it therefore enacted by the Lieutenant-Governor, Council and Assembly:

Every tenant where land was unimproved at commencement of tenancy entitled to compensation on expiry of term.

I. From and after the passing of this Act, any tenant occupying lands under a lease or agreement, verbal or in writing, or any memorandum of agreement whereby any term or estate is reserved to the landlord, which lands shall have been in a wilderness or unimproved state when the possession was given, or such lease or agreement made or tenancy created, and when permanent improvements shall have been made in such land or premises since the commencement of such occupation, any such tenants shall, at the expiration of the term of years limited in such lease or agreement, or on the determination of any tenancy at will, or other tenancy, be entitled to receive compensation for the value of such improvements as hereinafter is mentioned.

After expiry of term, or service of notice to quit, tenant to serve notice of application for appointment of arbitrators.

II. After the expiration of any term of years granted by any lease, or upon any notice to quit or demand of possession by any landlord, or any act done by such landlord to determine the tenancy of any tenant, or which shall have the effect of determining such tenancy, the tenant shall serve a notice in writing upon the landlord that he will apply to the Supreme Court for the appointment of arbitrators to determine the amount of compensation to which he may be entitled; and which notice shall be served ten clear days before the next sitting of the said Court in Charlottetown.

Mode of application to Supreme Court for appointment of three arbitrators to value improvements.

III. At the term or sitting of the Supreme Court next after such notice shall been served (provided that ten clear days shall have elapsed between the day of such service and the said term) the tenant may apply for the appointment of three arbitrators to value the improvements upon the said lands and premises, and the tenant having shown to the said Court, by affidavit, or in such other manner as the said Court shall direct, that he is entitled to compensation under the provisions of this Act, and no cause to the contrary being shown by the landlord, or upon hearing the landlord the Court shall decide that such tenant is entitled to such compensation, it shall be lawful for the said Court to make an order appointing three fit and proper persons as arbitrators, who shall not reside upon the township upon which the tenant's lands and premises are situated, or the township adjacent thereto, who have given to each party due and reasonable notice of the time and place of their meetings, to consider the matters to them referred, shall, or any two of them shall, and are hereby authorised and empowered to settle the amount of compensation, if any, to which the tenant shall be entitled under the provisions of this Act, and to make their award therein, under their hands and seals, or any two of them, within such time as shall be specified in the order of the said Court for such award to be made, and shall return such award when so made to the Clerk of the Supreme Court, which award shall be in the form of schedule (A), to this Act annexed, or as near thereto as the circumstances of the case will allow.

Arbitrators not to reside on township where tenant's lands are situate, or township adjacent thereto.

Arbitrators, or any two of them, to settle amount of compensation, and make award in writing under seal

Award to be returned to Clerk of Supreme Court.

Form of award.

Mode of proceeding by the arbitrators in determining their award.

IV. The Arbitrators who may be appointed as in the last preceding section is specified, shall proceed to compute the compensation as follows: they shall proceed to ascertain the improvements of all kinds for which the tenant is entitled to compensation, according to the terms and meaning of the provisions of this Act, whether the same be in the form of clearing and reducing the land into cultivation, or of buildings, or of works to increase the productive power of the soil, by draining, or by any other productive expenditure of labour, and the expense of such improvements, and the amount of increased value created by the same, and they shall award to the tenant the full costs of all improvements so made by which the value of the premises may be increased, or such amount therein as they shall think fair and just, according to the circumstances of the tenancy, and according to the rules

herein provided, in such manner as best to carry out the principles upon which the provisions of this Act are founded.

Mode of determining.

V. In any estimate of the amount of compensation to be allowed for buildings under this Act, the Arbitrators aforesaid shall first estimate the cost at which new buildings might be erected; of the quality and extent of those for which compensation may be claimed, and afterwards they shall estimate whether any and what deduction should be made for deterioration from age or other causes, and, having deducted such amount, if any, from the sum first ascertained, the remainder shall, in all cases, be deemed and taken to be the amount of compensation to be awarded to the tenant or lessee for such buildings; provided always, that in case it shall appear that any building or buildings for which compensation shall be demanded, are of greater extent, or erected at a higher cost, or for purposes other than what are suituable for the premises, and from any of these causes do not increase the value of the same, or do not produce an increased rent, equal to the cost, the compensation shall be reduced in amount accordingly; and in determining the amount of compensation which shall be allowed to any claimant for the improvement of the soil, credit shall be given by the said Arbitrators for all works of every description, and all expenditure of labour and capital proved to have been made, whether in clearing and reducing the land into cultivation, or in any other way which shall have produced a permanent increase of the real value of annual rent of the property unimproved, and none other; and the nature, extent, expense, and present condition of all such improvements having been ascertained, by the evidence which shall be produced on the part of the tenant or lessee, the amount of compensation to be awarded shall be determined in the following manner, that is to say: an estimate shall be first made of the annual rent which the lands would produce as then improved, and an estimate shall be next made of the inferior rent which the same lands would be capable of producing if such improvements had not been made, and the difference of the two sums shall be considered the amount of annual profit to the landlord, created by the tenant or lessee's improvements on the soil, and the amount of compensation to be awarded as due to the claimant for improvements on the soil, shall be so much principal money as the amount of annual profits represents in the shape of interest, for one year, at the rate of five pounds per centum per annum; for instance, if the amount of annual profit shall be two pounds ten shillings, then the amount to be awarded as compensation for improvements on the soil shall be fifty pounds, and so on in like proportion for a greater or less amount; and in determining such amount, it shall be lawful for the arbitrators to inquire into and take into consideration the length of previous tenure or occupancy, and the rent paid, and the extent to which the tenant or lessee had been or might have been remunerated for the clearing of the land or improvement of the soil during his past occupancy; and it shall also be lawful for the arbitrators aforesaid to take into consideration any expenditure of manure, lime, or any other matter calculated to improve the temporary fertility of the soil, although not in the class of permanent improvements, and to award such recompense as they may think right for all such unremunerated expenditure.

No buildings to be allowed for, which do not increase the rent for which the premises would be let.

Mode of determing the value of improvements of the soil.

Landlord may rebut tenant's claim for compensation, and require the arbitrators to make allowance or reduction.

Allowances of rents, debts, &c., due to landlord to be deducted out of compensation, and to be retained by landlord.

Costs of arbitration &c.

VI. It shall be lawful for any landlord against whom claim for compensation shall be made by any tenant as aforesaid, to rebut such claims thereto if in his power, and to require the arbitrators to inquire into objections made by such landlord, and to make such allowance or reduction after such objections as to such arbitrators may seem just; and all rent, and arrears of rent, debts, fines, or penalties due to the landlord by the tenant, shall in all cases of allowance of compensation for improvements of any kind be discharged out of the money paid for the purpose of such compensation; the costs of such arbitration to be in the discretion of the arbitrators, and the costs of any application to the Supreme Court shall be in the discretion of the said Court.

Right of appeal to Supreme Court by landlord or tenant from award.

VII. Either the landlord or the tenant, if he shall think himself aggrieved by such arbitrators having failed to observe the rules herein provided for the regulation of their proceedings, and for the determining the amount of compensation to be awarded, or if the duties and requirements contained in the order appointing such arbitrators as aforesaid have not been complied with, it shall be lawful for such landlord or tenant to appeal against such award to the said Court, and if it shall appear to the said Court that the objections so made to the proceedings of the arbitrators in the matter of any award made by them were valid against the same, it shall thereupon be lawful for such Court to cancel, alter, or amend any such award, and, if necessary, to refer the question of compensation back to the arbitrators, or to remove any arbitrator or arbitrators, if he or they shall have been guilty of any misconduct, and to appoint new arbitrators, or a new arbitrator, as the case may require, and to make such other order with relation to the said matter as to the said Court shall be deemed advisable.

Court may cancel, alter, or amend, or refer it back to arbitrators.

Power to appoint new arbitrators.

Form of notice of appeal, and time of service.

VIII. When either party shall appeal to the said Supreme Court against any such award as aforesaid, he shall serve upon the opposite party a notice in writing, in the form of schedule (B) to this Act annexed, at least ten clear days before the next term of such Court, after such award shall have been filed as aforesaid, and in case there should not be ten clear days between the time of filing such award and the then next term of the said Supreme Court, such notice of appeal shall be given for the next ensuing term thereof.

Mode of procedure by tenant to obtain protection on commencement of action of ejectment by landlord.

Court or a Judge to issue an order restraining the landlord from further prosecuting his ejectment, until compensation, &c.

IX. When any tenancy shall determine or have been determined, as aforesaid, and proceedings shall have been commenced to eject the tenant from the land and premises so in his occupation, such tenant may apply to the Supreme Court, or to a Judge thereof, for an order restraining the landlord from further proceedings to eject such tenant, and if such tenant shall satisfy the said Court, or a Judge thereof, that he is entitled to compensation under the provisions of this Act, the said Court, or a Judge thereof shall, and he is hereby required (upon the said tenant undertaking, immediately, to institute proceedings under this Act to ascertain the amount of compensation to which he is entitled), to issue an order under the seal of the said Court, restraining the landlord from further prosecuting his suit to eject the said tenant from the lands and premises so in his possession, to which such landlord might otherwise be entitled, until the amount of compensation, if any, determined by the award of such

arbitrators shall have been paid to such tenant, or lodged in such Court for or to the credit of such tenant, less such deduction as specified in the sixth section of this Act.

Landlord to have fourteen clear days after service of award to make his election whether he will pay compensation or grant extension of lease. Term of years and rent of extended lease.

X. Whenever any such award shall have been made in manner hereinbefore mentioned, and is in favour of the tenant, the landlord where such lease under which such compensation has been awarded, is under seal, shall have fourteen clear days after a copy of such award shall have been served upon him to make his election whether he will pay the amount awarded for compensation, or in lieu thereof grant to the tenant an extension of the term of the said lease of the said land and premises, for the term of nine hundred and ninety-nine years, at a yearly rent similar in amount to the last year's rent reserved by the said lease, the term of which has expired, or has been determined as aforesaid.

Mode of procedure by landlord, when he elects to grant an extension of lease.

XI. When the landlord shall elect to grant an extension of the lease, as in the last preceding section is specified, he shall serve a notice upon the tenant at least ten clear days before the next ensuing term of the Supreme Court, at Charlotte Town, in the form and to the effect of the Schedule to this Act annexed, marked (C), and which said notice shall require the tennant to produce his lease, upon the expiration of the term of years thereby demised, or forfeiture of which he has been awarded compensation to the said Court, and proof having been made of the due service of such notice upon the tenant, the said Court shall thereupon direct the following memorandum to be endorsed upon the said lease and the counterpart thereof:—

Form of memorandum of extension to be endorsed upon the lease and counter-part.

"It is ordered that this lease shall be extended for the term of nine hundred and ninety-nine years from the day of A.D. 18 (being the day upon which the tenancy expired or was determined).

"By the Court,

"A. B., *Prothonotary.*"

Effect of memorandum

Which said Memorandum shall have the like effect, and shall be deemed and taken as if the additional term of nine hundred and ninety-nine years had been originally inserted in the said indenture of lease, in addition to the term therein mentioned, and shall be so held and construed for all purposes whatsoever.

When tenant entitled to compensation shall hold the land under a lease not under seal, &c., landlord may elect to give notice mentioned in preceding section.

XII. Whenever any tenant entitled to compensation under the provisions of this Act shall hold the land and premises in his possession under a lease not under seal or any agreement for a lease, or any memorandum in writing or verbal agreement, and the landlord shall have been adjudged to make compensation as aforesaid, such landlord, if he shall so elect, shall give the notice mentioned in the preceding section.

Supreme Court, upon proof of service of notice on landlord, as mentioned in 2nd section, shall direct Prothonotary to execute a lease to the tenant for 999 years. Lease to be prepared under the directions of the Court. Recited therein. Rent to be reserved. To whom payable. Clause of re-entry. Covenants, &c. Lease to be signed by the Prothonotary and the tenant. Landlord entitled to same remedies as if he had executed lease.

XIII. Upon proof having been made to the Supreme Court of due service of such notice upon such landlord as in section second of this Act, is required, the said Court shall thereupon direct the Prothonotary of the said Court to execute a lease to the tenant of lands in his possession, for the term of nine hundred and ninety-nine years from the day of the date of the execution thence next ensuing, which said lease shall be prepared under the orders and by the directions of the said Court, and shall shortly set forth the facts and circumstances of each case, and shall express to be made in pursuance of this Act, and shall reserve a rent equal in amount to the last year's rent of the lease which has expired or been determined, as aforesaid, payable to the landlord or to such person as would, for the time being, be entitled to receive the rent thereof, if the said lease or agreement for a lease or other agreement had originally been for the term of nine hundred and ninety-nine years, which said lease shall contain a clause of re-entry upon non-payment of rent, and such covenants and provisoes as are usual and customary in the leases granted upon the estate wherein such lands and premises are situate, to be approved of by the Court, and which said covenants shall be made to and with the landlord, and such persons entitled to the rent as last aforesaid, and which said lease shall be signed by the Prothonotary of the Court and the tenant and the landlord or party for the time being entitled to the rent as aforesaid, shall be entitled to the same remedies in law, in any respect, as if such landlord or other person, entitled as aforesaid, had executed such lease; provided that nothing herein contained shall estop any person not in possession of such land and premises, but who may be entitled to the same, or a part or share thereof, from recovering the same from the tenant in possession, to whom such leave shall have been made.

Proviso.

Lease on extension of term of any lease under 11th and 13th sections to be binding upon the landlord and those claiming under him, &c.

XIV. The lease or the extension of the term of any lease mentioned in the eleventh and thirteenth sections of this Act shall be binding upon the landlord, and those claiming under or through him, whether he be tenant in fee, tail in his own right, or in that of his wife, or jointly with his wife, and it shall bind the issue of his body, and all persons having any estate whatever in the said lands and premises in possession, reversion, remainder, or expectancy.

On service of notice demanding compensation by tenants, landlord may immediately elect to the granting of a new lease without proceeding to an award, &c. Effect of such lease.

XV. Whenever any tenant shall serve a notice demanding compensation as hereinbefore specified, the landlord may immediately elect to extend the term of the lease of such tenant, or to agree to the granting of a new lease as hereinbefore provided for, and he shall thereupon proceed as if such award had been made as hereinbefore set forth, and such lease when so made shall be in all respects as binding and conclusive both upon the landlord granting the same, and upon the tenant to whom the same is granted, and all persons claiming through either of them, as if the said lease had been executed in pursuance of the order of the Supreme Court by the Prothonotary thereof.

No tenant to be entitled to any compensation where his tenancy forfeited for non-payment of rent &c., unless the land-

XVI. No tenant shall be entitled to any compensation under the provisions of this Act where his tenancy has become forfeited by reason of the non-payment of rent, or of the breach of any condition or proviso, wherein a right of re-entry is reserved or contained in any indenture of lease, unless any landlord has waived the breach of any such condition or proviso, either by express stipulation, or by any Act which shall be deemed in law a waiver thereof, and no tenant shall be deprived of

lord has waived the forfeiture.

any such compensation under the provisions of this Act by reason of the fact of his being in arrear of rent.

Tenant not to be deprived of compensation in consequence of arrears of rent.

Only original tenant who went into actual possession of unimproved lands and those claiming under him, to be entitled to compensation.
Lands must have been in a wilderness, or wholly unimproved state at commencement of entry.
No compensation when occupation for one or two years, &c.
Other exceptions.
Act not to apply to any town, common, or royalty.

XVII. No tenant shall be entitled to compensation under the provisions of this Act unless he is the original tenant who went into actual possession of such unimproved lands, under the lease or agreement for a lease or other memorandum or agreement, verbal or in writing, the term of which has expired or been determined as aforesaid; and also his executors, administrators, and assigns, or those claiming from or through him, them, or any of them, under any statute for the distribution of the estate of intestates, or in any other way, and unless such lands were at the commencement of such entry in a wilderness or wholly unimproved state, or unless at the time of the creation of the tenancy for the determination of which he claims compensation as aforesaid, the said lands and premises were in a wilderness state; and no compensation shall be awarded if his occupation was for one or two years, or for any special or temporary purpose, or if the said lands and premises were let for the express purpose of building, or were let by the foot or other lineal measurement, denoting that such letting was actually *bonâ fide* for the purpose of building; nor shall any tenant be entitled to compensation to any lands situate in any town, common, or royalty thereof, or to any water lots.

Definition of words:
"Landlord."
"Improvement."

XVIII. The word "landlord" shall be understood to mean the person or party entitled to the immediate possession or the reversion of the lands and premises upon the determination of the tenancy, and the legal representatives of such persons and those claiming from or through him; and the word "improvement" shall be taken to include all buildings and repairs of buildings, fences, clearing lands from the forest, and reducing them to a state of cultivation, and all works of any kind which have tended to increase the permanent value of the lands and premises.

Landlord residing without this island, all notices, &c., &c., to be served upon his agent.

XIX. If any landlord shall reside without this island and beyond the jurisdiction of the Supreme Court, any notice or other proceeding required to be served upon him shall be served upon his agent residing within this island, and such service shall be held and deemed a good service upon the landlord.

Judges of Supreme Court to make rules, &c.

XX. The Judges of the Supreme Court are hereby empowered to make such rules and regulations for the better and more efficient working of this Act, with reference to such matters and things as shall be brought before them or the said Court.

Orders may be made returnable at Chambers.
Judge at Chambers to have same power as Supreme Court.

XXI. The Supreme Court may, in its discretion, direct any order to be returnable, or any proceedings to be had before a Judge thereof, at chambers, and such Judge shall have full power and authority to make any such order in as full and ample a manner as the Supreme Court is authorized and empowered to do under the provisions of this Act.

No proceedings taken by any landlord to eject any tenant between time of Lieutenant-Governor's assent and assent of Her Majesty, to debar any tenant from claiming compensation under this Act.
Time of service of notices, &c.
Proviso.

XXII. When any proceedings shall be commenced by any landlord against any tenant to eject him from any lands and premises, after this Act shall have received the assent of the Lieutenant-Governor, but before the assent of Her Majesty shall have been given, and notified in manner required by the last section of this Act, and such tenant would, if such proceedings had been commenced, after such assent and notification thereof, as last aforesaid, be entitled to compensation under the provisions of this Act, then such tenant shall be entitled to such compensation, and shall, in all respects, be deemed and taken to be within the provisions of this Act, and all notices or other proceedings shall be given or taken by any such tenant, for the sitting of the Supreme Court of Charlottetown, next after this Act shall have received Her Majesty's assent, and notification thereof shall have been published as aforesaid; provided there be the requisite number of days between such publication and the next sitting of the said Court, otherwise such notices shall be served and proceedings taken for the then next term of the said Court at Charlottetown.

Title of Act.

XXIII. This Act shall be cited as "The Tenants' Compensation Act, 1871."

Suspending clause.

XXIV. This Act shall not go into operation until Her Majesty's pleasure is known, and notification thereof shall have been published in the "Royal Gazette" of this island.

SCHEDULE (A).

In the matter of the application of X. Y., a tenant claiming compensation under "The Tenants' Compensation Act, one thousand eight hundred and seventy-one."

Form of award of arbitrators.

Whereas, by an order made by the Supreme Court of Judicature of Prince Edward Island on the day of (last or instant), A.D. 187 , A. B., of , in the said island, C. D., of , in the said island, and E. F., of , were appointed arbitrators to settle the amount of compensation, if any, to which the said X. Y. is entitled under the provisions of the "Tenants' Compensation Act, one thousand eight hundred and seventy-one," and did, after such appointment, duly give the notices required by the said Act of the time and place of their meetings; and whereas the said A. B., C. D., and E. F., arbitrators as aforesaid, did, pursuant to the provisions of the said Act, and of the order of the said Court (or if only two of them attend such meetings, then say, the said A.B., and E. F., two of such arbitrators as aforesaid, did, pursuant to the provisions of the said Act, and of the order of the said Court), compute and estimate the amount of compensation to which the said X. Y., the tenant, is entitled for improvements on the farm of land situate at in the said island, consisting of acres heretofore held or occupied by the said X. Y., as tenant to Now, these presents witness that they, the said A. B., C. D., and E. F., arbitrators as aforesaid (or if only two of them, then

say A. B. and C. D., two of such arbitrators as aforesaid), in pursuance of the powers vested in them by the said Act, and by the said order of the Supreme Court, do award, order and adiudge the sum of pounds to the said X. Y., as the compensation to which he is entitled under the "Tenants' Compensation Act, one thousand eight hundred and seventy one," for improvements on the said farm. In witness whereof we have hereto our hands and seals subscribed and set on the day of A.D. 187

(Seal.)
(Seal.)
(Seal.)

SCHEDULE (B.)

In the matter of the application of A. B., a tenant claiming compensation under "The Tenants' Compensation Act, one thousand eight hundred and seventy-one."

Sir,

Take notice that I have appealed from the decision of the arbitrators in this matter, and shall, on the first day of the next term of the Supreme Court, or as soon thereafter as counsel can be heard, move to have the said award set aside, or such other order made therein as to the said Court shall be deemed just.

Form of notice of appeal from award of arbitrators.

To A. B., the above-named tenant, or C. D., the landlord, as the case may be.

SCHEDULE (C.)

In the matter of the application of A. B., a tenant, claiming compensation under "The Tenants' Compensation Act, one thousand eight hundred and seventy-one."

Sir,

Take notice that I elect to the granting of an extension of terms of the lease under which you claim compensation, instead of paying any compensation therefor, and take notice that I shall, on the first day of next term of the Supreme Court at Charlottetown, or as soon thereafter as counsel can be heard, move that the term of such lease be extended for nine hundred and ninety-nine years, and further take notice that I require you to produce such lease at the said Court.

Form of notice from landlord to tenant that he elects to extend the lease for 999 years.

C. D., Landlord,
By E. F., his Agent.

To A. B.,
The above Tenant.

A true copy, which I certify,
(Signed) FREDK. BRECKEN,
Attorney-General for Prince Edward Island.

9th June, 1871.

No. 2.

CAP. X.

The Tenants' Compensation Act, 1872.

[*Passed June* 29, 1872.]

WHEREAS it is expedient to amend the law relating to the occupation and ownership of land in this island. Be it enacted by the Lieutenant-Governor, Council, and Assembly as follows:—

I. Any tenant occupying lands under a lease or agreement, verbal or in writing, or any memorandum or agreement whereby any term or estate is reserved or will revert to the landlord may, on the expiration of his lease or upon the legal determination of his tenancy, by any act of himself or his landlord, claim compensation to be paid by the landlord in respect of all improvements on such lands made by him or his predecessors in title.

Tenants' right on expiry of lease.

(*a.*) Provided that a tenant shall not be entitled to any compensation in respect of any improvement made before the passing of this Act, and twenty years before the claim of such compensation shall have been made, except permanent buildings and reclamation of waste or wilderness lands, or,

Proviso.

(*b.*) In respect of any improvement prohibited in writing by the landlord as being and appearing to the Court to be calculated to diminish the general value of the landlord's estate, and made within two years after the passing of this Act, or made during the unexpired residue of a lease granted before the passing of this Act, or

Cases where not allowed compensation.

(*c.*) In respect of any improvement made either before or after the passing of this Act, in pursuance of a contract entered into between landlord and tenant for valuable consideration therefor, or

(*d.*) Subject to the rule in this section mentioned, as to contracts in respect of any improvement made either before or after the passing of this Act in contravention of a contract in writing not to make such improvement, or

(*e.*) In respect of any improvement made either before or after the passing of this Act, which the landlord has undertaken to make, except in the cases where the landlord has failed to perform his undertakings within a reasonable time.

II. A tenant of any lands under a lease or written contract made before the passing of this Act, shall not be entitled on being disturbed by the act of the landlord in or on quitting his lands to any

Compensation where excluded by lease.

compensation in respect to any improvement, his right to which compensation is expressly excluded by such lease or contract.

Landlord where entitled to set-off.

III. Out of any moneys payable to the tenant under this Act, all sums due to the landlord from the tenant or his predecessors, in title, in respect of rent, or in respect of any deterioration of the holding, arising from non-observance on the part of the tenant of any express or implied covenant or agreement, may be deducted by the landlord, and also any taxes payable by the tenant, due in respect of the lands, and not recoverable by him from the landlord.

Contracts against improvements to be void.

IV. Any contract between a landlord and a tenant, whereby the tenant is prohibited from making such improvements as may be required for the suitable occupation and due cultivation of his lands, shall be void, both at law and in equity, but no improvement shall be deemed to be required for the suitable occupation of a tenant's farm and its due cultivation, which appears to the Court to diminish the general value of the estate of the landlord in which such farm is situated.

Tenant, by his own contract, not to be deprived of his claim.

V. Any contract made by a tenant, by virtue of which he is deprived of his right to make any claim which he would otherwise be entitled to make under this Act, shall, so far as relates to such claim, be void both at law and in equity, subject to the provision herein contained as to any improvement made in pursuance of a contract entered into for valuable consideration therefor.

Evidence of improvements.

VI. For the purposes of compensation under this Act, all improvements on a farm shall, until the contrary is proved, be deemed to have been made by the tenant or his predecessors, in title, except in the following cases where compensation is claimed in respect of improvements made before the passing of this Act.

Exceptions.

(*a.*) Where such improvements have been made previous to the time at which the farm, in reference to which the claim is made, was conveyed on actual sale to the landlord or those through whom he derives title.

(*b.*) Where such improvements were made twenty years or upwards before the passing of this Act.

(*c.*) Where, from the entire circumstances of the case, the Court is reasonably satisfied that such improvements were not made by the tenant or his predecessors in title.

Predecessors and successors of tenants.

VII. For the purposes of this Act a tenant shall be deemed to have derived his holding from the preceding tenant, if he has paid to such preceding tenant any money, or given to him any money's worth, in respect of his farm, or has taken such farm by assignment, demise, or operation of law, from the preceding tenant, and where a succession of tenants have derived title each from the other, the earlier in such succession shall be deemed to be the predecessor of the later, and the later in such succession shall be deemed to be the successor of the earlier.

Persons ejected excluded from compensation.

VIII. No person shall be entitled to any compensation under the provisions of this Act, where he shall have been actually ejected from his farm or holding, by reason of the non-payment of his rent, or of the breach of any condition or proviso, wherein a right of re-entry is reserved or contained in any indenture of lease, and no tenant shall be deprived of any such compensation under the provisions of this Act, by reason of the fact of his being in arrear of rent.

Three months' notice to be given by tenant.

IX. Every tenant entitled under this Act to make any claim in respect of any right or for payment of any sums due to him by way of compensation, and about to quit his farm or holding may, within three months prior to the expiration or other determination of his tenancy or lease, or within three months subsequent to such expiration or other determination, serve a notice of such claim on his landlord, or, in his absence, his known agent, the notice shall be in writing and shall state the particulars of such claim, subject to such amendment as the Court may allow, together with the dates at which, and the periods within which, such particulars are severally alleged to have accrued, as nearly as the same can be ascertained.

Two months' notice to be given by landlord

X. On the receipt of the notice, the landlord shall be deemed to have admitted the claim made by the tenant, unless within two months he serves a notice on the tenant, stating that he disputes the whole or some portion of the claim made by the latter, and upon service of such notice by a landlord on the tenant, a dispute shall be deemed to have arisen between the landlord and the tenant, as to the whole or a portion of such claim, and such dispute shall be decided by the Court, unless within the time and in the manner prescribed in that behalf such dispute shall have been settled by agreement between the landlord and the tenant.

Tenant, when to apply to a Judge at Chambers.

XI. On the receipt of any such notice from the landlord, the tenant shall, within one month from the receipt thereof, apply to the Court or to a Judge thereof at Chambers, on an affidavit of the facts, for an order or summons calling upon the landlord to show cause, at the then next sitting of the Court, why the claim for compensation of the said tenant should not be allowed and paid, a copy of which summons or order shall, together with the affidavit upon which the same was granted, be served upon the landlord at least fifteen days before the first day of the term or sitting of the Court at which the said summons or order is made returnable.

Judge's power.

XII. On the return of any such summons or order, either party may make any claim, urge any objection to the claim of the other, or plead any set-off such party may think fit, and the Court shall take into consideration any such claim, objection, or set-off; also, any such default or unreasonable conduct of either party as may appear to the Court to affect any matter in dispute between the parties, and shall admit, reduce, or disallow altogether any such claim, objection, or set-off, made or pleaded on behalf of either party, as the Court thinks just, giving judgment on the case with regard to all its circumstances, and the Court shall have jurisdiction at the hearing of any such dispute to ascertain what rent, if any, is due to the landlord in respect of the farm or holding for the improvements on which compensation is claimed.

Affidavit and *viva voce* evidence receivable.

XIII. On the hearing of every such order or summons, the Court may receive any affidavits from either party, and hear any evidence, *viva voce* or otherwise, they shall deem necessary, and they shall have full power to adjourn the hearing of such dispute from time to time, and to admit such new evidence or supplementary affidavits as they may deem necessary to enable them to give a proper judgment on the matters in dispute, and the adjournment of such hearing may be from term to vacation, and *vice versâ*.

XIV. In every case of dispute between landlord and tenant heard before the Court, the order of the Court shall be reduced into writing, in the form of a decree or award (as the case may be), and shall state the items of the claim allowed, and also the particulars of any set-off, objection, default, or conduct, allowed or taken into account, such decree or award to be and to have in every respect the effect of a judgment regularly entered up in the said Court; provided that in no case shall any execution issue on such judgment against the landlord until the tenant shall have quitted his holding, and given up possession of his farm. **Judge's decree or award, how made.**

XV. A tenant who may be decided by the Court to be entitled to compensation to be paid by any landlord, shall not be compelled by process of law to quit his holding until the amount of compensation due to him has been paid or deposited in manner hereinafter mentioned, a landlord, shall in all cases, have the option of depositing the amount of the compensation awarded or decreed to any tenant in the hands of the Prothonotary of the Court, and if at any time after the making of a claim for compensation, as hereinbefore directed, and before finally giving up possession of his farm or holding, a tenant shall be alleged to have done any damage to his farm or holding, or the buildings thereon, the Court shall inquire into the same and allow to the landlord, out of the money so deposited, such compensation as it may deem just. In no case shall a tenant, except by special leave of the Court, be entitled to receive the money so deposited until he shall have given up possession of his farm or holding, and in no case shall the Prothonotary charge any poundage on any money so deposited in his hands. **Tenant to retain farm till compensation paid, which may be lodged with Prothonotary.**

XVI. The Court shall have full power in its discretion to appoint two or more assessors to examine the farm and holding of any tenant, and any improvements thereon for which compensation is claimed, and such assessors, when so appointed, shall examine such farm and holding, and shall make their report to the Court within such time and in such mode and manner as the Court shall direct. **Assessors, their appointment and duty**

XVII. When any tenancy shall determine or have been determined as aforesaid, and proceedings shall have been commenced to eject the tenant from the land and premises so in his occupation, such tenant may apply to the Court or to a Judge thereof for an order restraining the landlord from further proceedings to eject such tenant, and if such tenant shall satisfy the Court or a Judge thereof that he is entitled to compensation under the provisions of this Act, the said Court or a Judge thereof shall, and he is hereby required (upon the said tenant undertaking immediately to institute proceedings under this Act, to ascertain the amount of compensation to which he is entitled) to issue an order under the seal of the said Court, restraining the landlord from further prosecuting his suit to eject the said tenant from the lands and premises so in his possession, to which such landlord might otherwise be entitled, until the amount of compensation, if any, determined by the said Court shall have been paid to such tenant or lodged in the hands of the Prothonotary for or to the credit of such tenant. **Ejectment, where and how restrained on application of tenant.**

XVIII. Where the parties to any such dispute, as aforesaid, respecting any farm or holding, or the improvements thereon, are desirous that such dispute should be settled by arbitration, they shall, in the manner and time prescribed in the Schedule to this Act, refer the same to an arbitrator or arbitrators, with an umpire to be appointed in manner appearing in the Schedule annexed hereto, and the Tribunal so selected shall be deemed in respect of such dispute the Court of Arbitration under this Act. **Arbitration, how available.**

XIX. The Court of Arbitration shall in all cases brought before it, under this Act, have all and the like powers, jurisdiction, and authority as the Supreme Court under this Act, with this exception, that the Court of Arbitration shall have no power to appoint assessors, or to punish persons for contempt or to enforce its awards, but it may report to the Supreme Court the name of any person refusing to give evidence, or to produce documents, or guilty of contempt of Court when sitting judicially, and the Supreme Court may, upon such report, punish the offender in the same manner as if the offence had been committed in, or in respect of a matter under the cognizance of the Supreme Court. The award of the Court of Arbitration may, at the instance of either party, be recorded in the Supreme Court in the manner and time prescribed in the said Schedule to this Act, and when so recorded shall be of the same effect, and shall be enforceable as if the same were an order of the said Court. No such award shall, so far as relates to the dispute under this Act, be held to be invalid by reason of the violation of, or non-compliance with, any technical rule of law respecting awards, where such award substantially decides the dispute referred to the Court of Arbitration. **Powers of Arbitration Court.** **Award may be recorded in Supreme Court.**

XX. No appeal shall lie from an award of the Court of Arbitration, nor shall any such award be removeable by *certiorari*. **No appeal.**

XXI. No compensation shall be awarded to any tenant under this Act whose occupation was for one or two years only, or for any special or temporary purpose, or if the said lands and premises were let for the express purpose of building on, or were let by the foot or other lineal measurement denoting that such letting was actually *bonâ fide* for the purpose of building, nor shall any tenant be entitled to compensation to any lands situate in any town, common and royalty of this island, or to any water lots. **Certain tenants excluded from compensation. Also towns and royalties.**

XXII. In the construction of this Act the following words and expressions shall have the force and meaning hereby assigned to them, unless there be something in the subject or context repugnant thereto. **Construction of certain words, viz.:**

XXIII. The term "landlord," in relation to a farm or holding, shall include a superior mesne or immediate landlord, or any person for the time being entitled to receive the rents and profits, or to take possession of any farm or holding. **"Landlord."**

XXIV. The term "tenant," in relation to a farm or holding, shall include any tenant from year to year, or any tenant for a life or lives, or for a term of years, under a lease or contract for a lease, whether the interest of such tenant has been acquired by original contract, lawful assignment, devise, bequest, or act, or operation of law, and where the tenancy of any person entitled to compensation under this Act is determined or expiring, he shall, notwithstanding such determination or expiration, be deemed to be a tenant until the compensation, if any, due to him under this Act has been paid or deposited as hereinbefore provided. **"Tenant."**

"Improvements."

XXV. The term "improvements" shall mean, in relation to a farm or holding:—

(1.) Any work which, being executed, adds to the letting or selling value of the farm or holding on which it is executed, and is suitable to such farm or holding.

(2.) Tillages, manures, or other like farming works, the benefit of which is unexhausted at the time of the tenant quitting his farm or holding.

"The Court."

XXVI. The term "the Court" shall mean the Supreme Court of this Island.

Absent landlords.

XXVII. If any landlord shall reside without this island, and beyond the jurisdiction of the Supreme Court, any notice or other proceeding required to be served upon him, shall be served upon his Agent residing within this island, and such service shall be held and deemed a good service upon the landlord.

Judges may make rules, &c.

XXVIII. The Judges of the Supreme Court are hereby empowered to make such rules and regulations for the better and more efficient working of this Act, with reference to such matters and things as shall be brought before them, as they may deem necessary or advisable.

Proceedings taken before Royal Assent

XXIX. If any proceedings shall be commenced by any landlord against any tenant, to eject him from any lands and premises after this Act shall have received the assent of the Lieutenant-Governor, but before the assent of Her Majesty shall have been notified in manner required by the last section of this Act, and such tenant would, if such proceedings had been commenced after such assent and notification thereof, as last aforesaid, be entitled to compensation under the provisions of this Act, then such tenant shall be entitled to such compensation, and shall in all respects be deemed and taken to be within the provisions of this Act, in as full and ample and beneficial a manner, as if such proceedings had been commenced after Her Majesty's Assent had been published as aforesaid.

XXX. This Act shall be cited as "The Tenants' Compensation Act, 1872."

Suspending clause.

XXXI. This Act shall not go into operation until Her Majesty's pleasure is known, and a notification thereof published in the "Royal Gazette" of this island.

SCHEDULE.

Arbitrations.

1. If both parties concur a single arbitrator may be appointed.

Death of arbitrator.

2. If the single arbitrator dies, or becomes incapable to act before he has made his award, the matters referred to him shall be determined by arbitration, under the provisions of this Act, in the same manner as if no appointment of an arbitrator had taken place.

Two arbitrators.

3. If both parties do not concur in the appointment of a single arbitrator, each party, on the request of the other party, shall appoint an arbitrator.

Appointment to be in writing.

4. An arbitrator shall, in all cases, be appointed in writing, and the delivery of an appointment to an arbitrator shall be deemed a submission to arbitration, on the part of the party by whom the same is made, and after any such appointment has been made, neither party shall have power to revoke the same without the consent of the other.

Fourteen days' notice.

5. If, for the space of fourteen days after the service by one party or the other of a request made in writing to appoint an arbitrator, such last-mentioned party fails to appoint an arbitrator, then upon such failure, the party making the request may apply to the Court, and thereupon the dispute shall be decided by the Court according to the provisions of this Act.

Death of arbitrator before award.

6. If any arbitrator appointed by either party dies or becomes incapable to act before an award has been made, the party by whom such arbitrator was appointed may appoint some other person to act in his place, and if for the space of fourteen days after notice in writing from the other party for that purpose, he fails to do so, the remaining or other arbitrator may proceed *ex parte*.

Refusal to act.

7. If, where more than one arbitrator has been appointed, either of the arbitrators refuses, or for fourteen days neglects, to act, the other arbitrator may proceed *ex parte*, and the decision of such arbitrator shall be as effectual as if he had been the single arbitrator appointed by both parties.

Refusal or neglect to make amend.

8. If where more than one arbitrator has been appointed, and when neither of them refuses or neglects to act, as aforesaid, such arbitrators fail to make their award within twenty-one days after the day on which the last of such arbitrators was appointed, or within such extended time, if any, as may have been appointed for that purpose by both such arbitrators under their hands, the matter referred to them shall be determined by the umpire, to be appointed as hereinafter mentioned.

Umpire.

9. Where more than one arbitrator has been appointed, the arbitrators shall, before they enter upon the matters referred to them, appoint, by writing under their hands, an umpire to decide on any matters on which they may differ.

Death or incapacity of umpire.

10. If the umpire dies or becomes incapable to act before he has made his award, or refuses to make his award within a reasonable time after the matter has been brought within his cognizance, the arbitrators shall forthwith, after such death, incapacity, or refusal, appoint another umpire in his place.

Refusal to appoint umpire.

11. If, in any of the cases aforesaid, the said arbitrators refuse, or for fourteen days after the request of either party to such arbitration, neglect to appoint an umpire, the Court, as defined by this Act shall, on application of either party to such arbitration, appoint an umpire.

Decision, when final.

12. The decision of every umpire on the matters referred to him shall be final.

Certified.

(Signed) E. PALMER, *Attorney-General.*

No. 3.

CAP. XXIV.

An Act to alter and amend "The Tenants' Compensation Act, 1872."

Whereas it is desirable to alter and amend "The Tenants' Compensation Act, 1872": Be it therefore enacted by the Lieutenant-Governor, Council, and Assembly, as follows, that is to say:—

ALL tenants shall be intitled to compensation under the provisions of the said recited Act, except such as are therein specially excluded.

When tenant may apply to Court for order to restrain landlord from ejecting him.

2. When any tenancy shall determine, or have been determined, as in the said Act mentioned (except where such tenancy shall determine or have been determined, by reason of the non-payment of rent or of the breach of any condition or proviso wherein a right to re-entry is reserved or contained in any Indenture of Lease), and proceedings shall have been commenced to eject the tenant from the land and premises so in his occupation, such tenant may apply to the Court or to a Judge thereof, for an order restraining the landlord from further proceedings to eject such tenant, and if such tenant shall satisfy the Court or a Judge thereof that he is entitled to compensation under the provisions of the said Act, the said Court or Judge thereof shall, and he is hereby required (upon the said tenant undertaking immediately to institute proceedings under this Act, to ascertain the amount of compensation to which he is entitled) to issue an order under the seal of the said Court, restraining the landlord from further prosecuting his suit to eject the said tenant from the lands and premises so in his possession, to which such landlord might otherwise be entitled, until the amount of compensation, if any, determined by the said Court, shall have been paid to such tenant or lodged in the hands of the Phothonotary for or to the credit of such tenant.

Terms upon which order may be granted.

Matters to be taken into consideration by Court in awarding compensation for improvements made before passing of this Act.

3. Where a tenant has made any improvements before the passing of this Act on a holding held by him under a tenancy existing at the time of the passing thereof, the Court, in awarding compensation to such tenant in respect of such improvements, shall, in reduction of the claim of the tenant, take into consideration the time during which such tenant may have enjoyed the advantage of such improvements; also the rent at which such holding has been held, and any benefits which such tenant may have received from his landlord in consideration expressly or impliedly of the improvements so made.

Sec 17, Tenant's Compensation Act, 1872, repealed.

4. The 17th section of the said "Tenants' Compensation Act, 1872," shall be and the same is hereby repealed.

Suspending clause.

5. This Act shall not go into operation until Her Majesty's pleasure therein shall be made known and a notification thereof published in the "Royal Gazette" of this island.

A true copy, which I certify.
(Signed) FREDK. BRECKEN, *Attorney-General.*

Charlottetown, Prince Edward Island,
November 13, 1873.

CAP. XXIV.

An Act to alter and amend "The Tenant Compensation Act, 1872."

This Act was introduced by the Government and carried through the Legislature for the purpose of enacting certain suggestions of the Colonial Minister the Right Honourable the Earl of Kimberley, contained in a despatch from him to the Lieutenant-Governor of Prince Edward Island, bearing date the 22nd day of April, A.D. 1873.

This Act contains a suspending clause.

(Signed) FREDK. BRECKEN,
Attorney-General for Prince Edward Island.

November 13, 1873.

No. 4.

CAP. III.

The Land Purchase Act, 1874

[On the 28th of April, 1874, this Act was reserved by his Honour the Administrator of the Government for the assent of his Excellency the Governor-General.]

Preamble.

WHEREAS the leasehold tenures of this island have long been a subject of contention and have proved seriously detrimental to the prosperity of this province, and to the contentment and happiness of its people; and whereas it appears from correspondence which has recently taken place between the Government of this island and certain proprietors, that there is no reasonable hope of the latter voluntarily selling their township lands to the Government at moderate prices; and whereas it is very desirable to convert the leasehold tenures into freehold estates on terms just and equitable to the tenants as well as to the proprietors.

Be it enacted by the administrator of the Government, Council and Assembly, as follows:

Definition of the term "Proprietor."

I. The terms and expressions hereinafter mentioned, which, in their ordinary signification, have a more confined or different meaning, shall, in this Act, except where the nature of the provisions in the context shall exclude such construction, be interpreted as follows: "Proprietor" shall be constructed to include and extend to any person for the time being, receiving or entitled to receive the rents, issues or profits of any land in this island (exceeding five hundred acres in the aggregate), in his or their own right, or as trustee, guardian, executor or administrator, for any other person or persons, or as a husband in right of, or together with his wife, and whether such lands are leased or unleased, occupied or unoccupied, cultivated or wilderness, provided that nothing herein contained shall be construed to affect any proprietor whose lands in his actual use and occupation and untenanted, do not exceed one thousand acres.

Colonial Secretary to notify proprietor of intention to purchase his land.

II. The Colonial Secretary shall notify any proprietor owning or possessing five hundred acres of land or upwards, that the Government of this province intend to purchase his land under the provisions of this Act.

What to be sufficient notification to proprietor.

III. Every such notification may be served upon a proprietor either by delivering the same to him personally, or in his absence from this island, to his known agent or attorney, or in any case, by posting the same to such proprietor, through the General Post Office, in Charlottetown, addressed to him at his last known place of abode, and by publishing a copy of such notice for eight consecutive weeks in the "Royal Gazette," and the posting of such notice and publication of the same, as aforesaid, shall be deemed and held to be as good and valid notice as if the same had been personally served on such proprietor or his known agent.

Government and proprietor each to nominate a Commissioner.

IV. The Government and the proprietor so notified shall each nominate a Commissioner to award the amount of money to be paid to such proprietor as hereinafter mentioned.

Commissioners to nominate a third.

V. The Commissioners so appointed by the Government and the proprietor shall nominate a third Commissioner who shall act in conjunction with them.

Application to be made to Supreme Court to nominate a Commissioner when proprietor refuses so to do.

VI. If any proprietor shall not, within sixty days after the notification prescribed in the first section, appoint a Commissioner, application may be made on behalf of the Government to the Supreme Court to nominate a Commissioner on behalf of such proprietor.

Supreme Court to appoint proprietor's Commissioner.

VII. The Supreme Court shall upon such application, appoint a Commissioner for such proprietor so refusing to appoint, who, when appointed, shall have the same powers and authorities as though such Commissioner had been appointed by such proprietor, under the second section of this Act.

When two Commissioners cannot agree upon a third, application to be made to Supreme Court.

VIII. If the Commissioner appointed by the Government, and the Commissioner appointed by the proprietor cannot agree upon the appointment of the third Commissioner, either party may apply to the Supreme Court for the appointment of such third Commissioner.

Power to Supreme Court to appoint third Commissioner.

IX. The Supreme Court shall, upon such application, appoint a third Commissioner, who, when appointed, shall have the same powers and authority as though he had been appointed by the Commissioners so appointed by the Government and the proprietor.

Application to Supreme Court to appoint guardian for lunatic proprietor, &c.

X. In case any proprietor shall be a lunatic, a person of unsound mind, or a minor, or labouring under any other disability, and has no guardian, an application shall be made on behalf of the Government to the Supreme Court, for the appointment of a guardian for such lunatic, person of unsound mind, or minor, or such other person.

Supreme Court to appoint guardian *ad litem*.

XI. Upon such application, the said Court may appoint a guardian *ad litem* for such lunatic, person of unsound mind, minor, or other person.

In case of Commissioner dying, successor how appointed.

XII. When and so often as any Commissioner shall die, or become incapable, or refuse to act before performing the duties imposed upon him under this Act, the party or parties who shall have appointed the Commissioner so dying or becoming incapable, or refusing to act, shall, within twenty days after such death, incapacity or refusal, appoint a Commissioner in the stead of the one so dying, or becoming incapable, or refusing to act.

In case of vacancy not filled up by the party entitled so to do, application may be made to Supreme Court to appoint.

XIII. In case the Commissioner appointed by the Government, and any proprietor shall refuse or neglect to appoint a Commissioner in the stead of the Commissioner so dying, or becoming incapable, or refusing to act as aforesaid, within ten days after such death or incompetency, or refusal, application shall be made on behalf of the Government under the sixth section of this Act, to the Supreme Court, for the appointment of a Commissioner on behalf of such proprietor or Commissioner so refusing or neglecting as aforesaid.

Notice to be given to proprietor that Commissioners intend to value his land.

XIV. When the three Commissioners shall have been appointed, not less than thirty days' notice shall be given on behalf of the Government to any proprietor (or his agent residing in this island authorised by power of attorney, duly registered in the office of the Registrar of Deeds), that the Commissioners will be called upon to value the lands of the proprietor.

Counsel to be employed.

XV. The Government and any proprietor may be represented by counsel before the Commissioners.

Subpœnas.

XVI. Either party shall have power to issue subpœnas, and subpœnas *duces tecum* to witnesses, to give evidence before the the Commissioners, which subpœnas shall be issued from the Prothonotary's Office upon payment of the usual fees.

Commissioners have power to examine on oath, &c.

XVII. The said Commissioners shall have full power and authority to examine, on oath, any person who shall appear before them, either as a party interested, or as a witness, and to summon before them all persons whom they, or a majority of them, may deem it expedient to examine upon the matters subject to their consideration, and the facts which they may require to ascertain, in order to carry this Act into effect, and to require any such person to bring with him, and produce before them, any book, paper, plan, instrument, document, or thing mentioned in such summons, and necessary for the purposes of this Act; and if any person so summoned shall refuse or neglect to appear before them, or appearing, shall refuse to answer any lawful question put to him, or to produce any such book, paper, plan, instru-

To compel production of books, &c.

ment, document, or thing whatsoever, which may be in his possession, or under his control, and which he shall have been required, by such summons, to bring with him, or to produce such person, shall, for every such neglect or refusal, incur a penalty of not less than five dollars, or more than fifty dollars, payable to Her Majesty, to be recovered with costs in the names of the Commissioners, or of any or either of them, upon bill, information, or plaint before the Supreme Court, and, in default of payment, shall be imprisoned for a period not exceeding three months in addition to any punishment for contempt which such Supreme Court may inflict.

Penalty for refusing.

XVIII. The Commissioners when appointed as aforesaid, shall make oath before one of the Judges of the Supreme Court, that they will well and faithfully discharge the duties imposed upon them under this Act, and adjudicate on all matters coming before them, to the best of their judgment, without fear, favour, or affection.

Commissioners to be sworn.

XIX. If any proprietor shall neglect to appear before the Commissioners, pursuant to notice, the Commissioners shall be at liberty to proceed *ex parte*.

When Commissioners may proceed *ex parte*.

XX. The Commissioners may, upon application made by any proprietor, upon cause being shown to the satisfaction of the Commissioners, grant an extension of time to such proprietor, before entering upon the hearing of such proceedings before them.

Commissioners may extend time to proprietor before entering on case.

XXI. It shall be lawful for the Commissioners to be appointed under the provisions of this Act, to enter upon all lands, concerning which they shall be empowered to adjudicate, in order to make such examination thereof as may be necessary, without being subjected in respect hereof to any obstruction or prosecution, and with the right to command the assistance of all Justices of the Peace, and others, in order to enter and make such examination in case of opposition.

Commissioners to have power to enter on lands.

XXII. The Commissioners, or a majority of them, may adjourn the hearing of any matter from time to time, as they may deem necessary and expedient.

Commissioners may adjourn proceedings.

XXIII. After hearing the evidence adduced before them, the Commissioners, or any two of them, shall award the sum due to such proprietor as compensation or price, to which he shall be entitled by reason of his being divested of his lands and all interest therein and thereto.

Commissioners, or any two of them, to award compensation to proprietor.

XXIV. The fact of the purchase or sale of the lands of any proprietor being compulsory, and not voluntary, shall not entitle any such proprietor to any compensation by reason of such compulsory purchase or sale, the object of this Act being to pay every proprietor a fair indemnity or equivalent for the value of his interest, and no more.

No allowance to be made on account of sale being compulsory.

XXV. In estimating the amount of compensation to be paid to any proprietor for his interest or right to any lands, the Commissioners shall take the following facts or circumstances into their consideration:—

Circumstances to be taken into consideration by Commissioners in estimating compensation to proprietors.

(*a.*) The price at which other proprietors in this island have heretofore sold their lands to the Government.

(*b.*) The number of acres under lease in the estate or lands they are valuing: the length of the leases on such estate; the rents reserved by such leases; the arrears of rent and the years over which they extend, and the reasonable probability of their being recovered.

(*c.*) The number of acres of vacant or unleased lands; their quality and value to the proprietor.

(*d.*) (1) The gross rental actually paid by the tenants on any estate yearly for the previous six years; (2) the expenses and charges connected with, and incidental to the recovery of such rent, and its receipt by the proprietor; and (3) the actual net receipts of the proprietor for the said period of six years.

(*e.*) The number of acres possessed or occupied by any persons who have not attorned to or paid rent to the proprietor, and who claim to hold such land adversely to such proprietor, and the reasonable probabilities and expenses of the proprietor sustaining his claim against such peasons holding adversely in a Court of Law, shall be an element to be taken into consideration by the said Commissioners in estimating the value of any such proprietor's lands.

XXVI. When the award shall have been made by the Commissioners, or any two of them, the same shall be published by delivering a copy thereof to the proprietor or to his agent, duly authorized, as aforesaid, and filing the original in the office ot the Prothonotary of the Supreme Court.

Award of Commissioners, how to be published.

XXVII. At the expiration of thirty days from such publication of the award, the Government shall pay into the Colonial Treasury the sum so awarded by the said Commissioners, or any two of them, to the credit of the suit or proceeding in which such award shall have been made.

Government to pay amount of award into Colonial Treasury.

XXVIII. The Colonial Treasurer shall immediately after such payment deliver to the Prothonotary of the Supreme Court, a certificate of the amount paid into the Treasury as aforesaid, which certificate shall be in the form to this Act annexed marked A.

Notice to Prothonotary that award has been so paid in.

XXIX. It shall be the duty of the Lieutenant-Governor in Council to nominate a fit and proper person to be called the "Public Trustee," who, when the sum so awarded to the proprietor as aforesaid, shall have been paid into the Treasury as aforesaid, shall (unless restrained by the Supreme Court or a Judge thereof), after fourteen days' notice to the proprietor or his agent authorized as aforesaid, execute a conveyance of the estate of such proprietor to the Commissioner of Public Lands, which said conveyance may be in the form to this Act annexed, marked B.

Public Trustee to be appointed; his duties.

XXX. The conveyance mentioned in the last preceding section, shall vest in the Commissioner of Public Lands an absolute and indefeasible estate of fee simple, free from all incumbrances of every description, and shall be held by and disposed of by him as if such lands had been purchased under the provisions of the Act passed in the sixteenth year of the reign of Her present Majesty, Queen Victoria, chapter 18, intituled "An Act for the purchase of lands on behalf of the Government of Prince Edward Island, and to regulate the sale and management thereof, and for other purposes therein mentioned," and shall also vest in the Commissioner of Public Lands all arrears of rent due upon the said lands.

Conveyance from Public Trustee to vest lands in Commissioner of Public Lands to be held and disposed of under provisions of 16 Vict., cap. 18.

XXXI. The appointment of the Public Trustee shall be under the great seal of this Province, and shall be registered in the office of the Registrar of Deeds.

Appointment of Public Trustee to be under Great Seal.

Party entitled to sum awarded, how to proceed to obtain same.

XXXII. The party entitled to the sum awarded, or any party or parties entitled to a portion of such sums for the lands so conveyed by the Public Trustee to the Commissioner of Public Lands, may receive the same by obtaining an order from the Supreme Court, upon presenting a petition, and upon proving his or their right to such sum or any portion thereof.

Supreme Court to make proper persons parties to proceedings.

XXXIII. It shall be the duty of the Supreme Court, upon any such application, to require that all proper persons shall be made parties to such proceedings and to apportion such sums in such shares and proportions as such parties shall be entitled to receive.

Conveyance from Public Trustee to exonerate Government from all claims on the estate.

XXXIV. When the full sum for any lands shall have been paid into the Treasury, and the conveyance executed by the Public Trustee to the Commissioner of Public Lands, the Government shall be absolutely exonerated from all liability to any person or persons whomsoever who may claim any estate so conveyed as aforesaid, or any interest therein, except as is mentioned in the next section.

Party obtaining amount of award to be paid his costs.
Proviso.

XXXV. The party obtaining an order from the Supreme Court for any money to which he shall be entitled for his estate so vested in the Commissioner of Public Lands, or any interest therein, shall be indemnified in his costs incurred by reason of any proceedings under this Act: Provided, always that no party shall receive or be entitled to any costs who has made an unsuccessful application to the Court for an order for the money so paid into the Treasury, as aforesaid, but such party shall pay to and reimburse the party who has received such order such costs as he shall have been put to by reason of such unsuccessful application.

When lands taken from any trustee, purchase money how to be invested.

XXXVI. When any estate shall be vested in the Commissioner of Public Lands, under the provisions of this Act, which shall, previous thereto, have been vested in the name or names of any trustee or trustees, the Court shall order the purchase money of such estate to be invested in the name or names of such trustee or trustees upon trust, to pay the interest arising from such investment in the same manner and to the same parties as the rents, issues and profits of the said land were payable previously to the sale thereof.

Supreme Court to make orders as to investment of purchase money to meet the case of dower estates, &c.

XXXVII. It shall be the duty of the said Court to make such order as to the investment and payment of the purchase money, and the interest arising therefrom, as may meet the circumstances of each case, so that widows entitled to dower, infants, judgment creditors, mortgagees, and all persons entitled to any estate or interest in the said lands, or the rents arising or to arise therefrom, or the arrears thereof, may receive either the interest of the said purchase money when invested as aforesaid, or the purchase money or shares thereof, as shall represent their estate or interest in said lands, or the rents arising therefrom, or the arrears thereof, previous to the vesting of the same in the Commissioner of Public Lands as aforesaid.

Trustees to hold purchase money upon same trusts as they held the lands.
When Supreme Court may appoint trustees.

XXXVIII. In every case when such lands have been vested in trustees, the purchase money shall be paid to such trustees to hold the same upon the same trust as they held the lands; and when there are no trustees, the Supreme Court shall have power to appoint trustees, and shall, by an order or rule of Court, declare the trusts upon which they shall hold the said purchase money, and the manner in which the purchase money shall be invested.

Supreme Court may dismiss trustee, &c.

XXXIX. The Supreme Court shall have power to dismiss any trustee or trustees so appointed by them, and appoint a trustee or trustees in the room or stead of the trustees so dismissed.

Remuneration of Commissioners, &c.

XL. The Commissioners and Public Trustee shall be allowed such remuneration for their services as the Lieutenant-Governor in Council shall deem them entitled to, under the circumstances of each case, which shall be paid by the Government of the Province.

Supreme Court may remit award back to Commissioners to correct any error, &c.
Proviso.
Proviso.

XLI. No award made by the said Commissioners, or any two of them, shall be held or deemed to be invalid or void for any reason, defect, or informality whatsoever, but the Supreme Court shall have power, on the application of either the Local Government or the proprietor, to remit to the Commissioners any award which shall have been made by them, to correct any error or informality or omission made in their award: Provided always that any such application to the Supreme Court to remit such award to the Commissioners, shall be made within thirty days from the publication thereof as aforesaid: and provided further that in case any such award is remitted back to the Commissioners, they shall have full power to revise and re-execute the same, and their powers shall not be held to have ceased by reason of their executing their first award, and in no case shall any appeal be from any such award, either to the Supreme Court, the Court of Chancery, or any other legal tribunal; nor shall any such award, or the proceedings before such Commissioners be removed, or taken into, or inquired into by any Court, by *certiorari*, or any other process, but with the exception of the aforesaid power given to such Supreme Court to remit back the matter to such Commissioners, their award shall be binding, final and conclusive, on all parties.

No appeal from award of Commissioners to Supreme Court or Court of Chancery.

Supreme Court to have power to make rules.

XLII. The Supreme Court shall have power to make any rules and regulations, not inconsistent with the provisions of this Act, for the purpose of more effectually carrying out the requirements of this Act, which rules shall be published in the "Royal Gazette" newspaper.

Supreme Court may appoint special sessions.

XLIII. Inasmuch as it is expedient that the matters referred to the Supreme Court, under this Act, shall not interfere with the ordinary business of said Court during term time, the said Court may, from time to time, appoint Sessions for the purpose of hearing proceedings under this Act: Provided always that one week's notice of such Session be given in the "Royal Gazette" newspaper.

No suit at law to be brought for the recovery of more than the current and subsequent years' rent.

XLIV. After the passing of this Act, no action at law shall be maintained by any proprietor for the recovery of more than the current and subsequent years' rent, and in case any such action is brought against any tenant by any proprietor, such tenant may plead this Act in bar of such action, nor shall any execution issue on any judgment recovered or to be recovered for rent by any proprietor against any tenant in this Island, excepting the current and subsequent accruing years' rent, and in case any such execution is issued the Supreme Court or a judge thereof shall, on application, stay any such execution until the award of the said Commissioners shall be made.

Title of Act.

XLV. This Act shall be cited and known as the "Land Purchase Act, 1874."

(A.)

Dominion of Canada,
Province of Prince Edward Island.

(L.S.)

Re the Estate of A. B. C. D. and others and the "Land Purchase Act, 1874."

Form of notice from Treasurer to Prothonotary that amount awarded has been paid into the Treasury.

I hereby certify that the sum of has been placed to the credit of the account opened in the above matter, which said amount will be paid together with costs, to such party or parties as the Supreme Court shall, by rule in the above matter, order and direct.

Dated the day of , 187

Treasurer.

(B.)

Dominion of Canada,
Province of Prince Edward Island.

Re the Estate of A. B., &c., and the "Land Purchase Act, 1874."

Form of deed from Public Trustee to the Commissioner of Public Lands.

Know all men by these presents that I, C. D., the Public Trustee duly appointed under the provisions of the "Land Purchase Act, 1874," do by these presents and by virtue of this Act (the sum of $ having been paid into the Treasury of this Province in the above matter, as appears by the certificate of the Treasurer of said Province, hereto annexed) grant unto E. F., the Commissioner of Public Lands and his successors in office, all that (here describe land) to have and to hold the same, together with all arrears of rent due thereon, to the said E. F. Commissioner of Public Lands and his successors in office, in trust, for such purposes and subject to such powers, provisions, regulations and authorities in every respect, and to be managed and disposed of in such modes as are set forth, declared and contained in an Act passed in the sixteenth year of Her present Majesty Queen Victoria, cap. 18, intituled "An Act for the purchase of lands on behalf of the Government of Prince Edward Island, and to regulate the sale and management thereof, and for other purposes therein mentioned," and of all other Acts in amendment thereof, and concerning lands purchased thereunder, by, and conveyed to the Commissioner of Public Lands therein mentioned.

In witness whereof I have hereunto set my hand and seal this day of A.D., 187

Witness to the execution by the said C. D.

No. 5.

Land Purchase Act, 1875.

Preamble.

WHEREAS the Government of Prince Edward Island is intitled to receive from the Government of the Dominion of Canada the sum of Eight Hundred Thousand Dollars, under the terms on which this island became confederated with Canada for the purpose of enabling the Government of this Province to purchase the township lands held by the proprietors in this island.

And whereas it is very desirable to convert the leasehold tenures into freehold estates upon terms just and equitable to the tenants as well as to the proprietors.

Be it enacted by the Lieutenant-Governor, Council, and Assembly, as follows:—

Definition of the term Proprietor.

1. The terms and expressions hereinafter mentioned, which in their ordinary signification have a more confined or different meaning, shall in this Act—except where the nature of the provisions in the context shall exclude such construction—be interpreted as follows:—"Proprietor" shall be construed to include and extend to any person, for the time being, receiving or entitled to receive the rents, issues, or profits of any township lands in this island (exceeding five hundred acres in the aggregate) in his or their own right, or as trustee, guardian, executor, or administrator for any other person or persons, or as a husband in right of or together with his wife, or whether such lands are leased or unleased, occupied or unoccupied, cultivated or wilderness, provided that nothing herein contained shall be construed to affect any proprietor whose lands in his actual use and occupation, and untenanted do not exceed one thousand acres.

The Commissioner of Public lands to notify Proprietor of in tenn to purchase his lands.

II. The Commissioner of Public Lands shall within sixty days after the publication of the Governor-General's assent to this Act in the Canada "Gazette" notify any proprietor or proprietors that the Government of this Province intend to purchase his or their township lands under this Act.

What to be sufficient notification to proprietor.

III. Every such notification may be served upon a proprietor either by delivering the same to him personally, or in his absence from this Island to his known agent or attorney, or in any case by posting the same to such proprietor through the General Post Office in Charlottetown, addressed to him at his last known place of abode, and by publishing a copy of such notice for twelve consecutive weeks in the "Royal Gazette" of this Province, and the posting of such notice and the publication of the same as aforesaid shall be deemed and held to be as good and valid notice as if the same had been personally served on such proprietor or his known agent.

Amount to be paid to proprietor—how ascertained.

IV. The amount of money to be paid to any such proprietor shall be found and ascertained by three Commissioners or any two of them to be appointed as hereinafter mentioned.

Government of Prince Edward Island to appoint a Commissioner.

V. The Lieutenant-Governor of this Island in Council, shall, within sixty days after the publication of the Governor-General's assent to this Act in the Canada "Gazette" nominate and appoint one Commissioner on behalf of the Government of this Island, for the purposes of this Act.

In case of vacancy to appoint a successor.

VI. In case of the death, neglect, refusal, or incapacity to act of the Commissioner so appointed by the Lieutenant-Governor in Council, he shall appoint a successor or successors as often as may be.

Governor-General to appoint a second Commissioner.

VII. The Governor-General of the Dominion of Canada in Council, shall, within sixty days after the publication of his assent as aforesaid, nominate and appoint the second Commissioner for the purposes of this Act.

In case of vacancy to appoint a successor.

VIII. In case of the death, neglect, refusal, or incapacity to act of the Commissioner so appointed by the Governor-General in Council, he shall in Council nominate and appoint a successor or successors as often as the case may be.

Proprietor to appoint third Commissioner.

IX. Any proprietor who shall have been notified under the second section of this Act, shall, within sixty days thereafter, nominate and appoint a third Commissioner on his or her behalf to act with the Commissioners so to be appointed as aforesaid: Provided that such Commissioner shall not be deemed to be a Commissioner under the terms of this Act until he shall have first given notice to the Commissioner of Public Lands of such his appointment.

Proviso.

Vacancy of third Commissioner—how filled.

X. In case of the death, neglect, refusal, or incapacity to act of the Commissioner so to be appointed by any proprietor, as aforesaid, any such proprietor may appoint a successor or successors as often as may be.

Supreme Court to appoint third Commissioner in case proprietor refuses to do so.

XI. If any proprietor shall not, within sixty days after the notification prescribed in the third section of this Act, appoint a Commissioner, or should not within thirty days of the death, neglect, refusal, or incompetence to act of any Commissioner appointed by any proprietor, as aforesaid, appoint his successor, then and in either of such cases application shall be made by the Commissioner of Public Lands to the Supreme Court of Judicature of this Island, to nominate a Commissioner on behalf of such proprietor.

No precedence to be claimed by one Commissioner over the others.

XII. No precedence shall be claimed by one Commissioner over the others of them, merely because he may have been appointed by the Governor-General in Council, or the Lieutenant-Governor in Council, but the three Commissioners so appointed, as aforesaid, shall elect which one of them shall preside at the meeting of such Commission, to take into consideration the matters referred to them under the provisions of this Act: Provided that in case the said Commissioners shall be unable to agree upon a presiding Commissioner, then such presiding Commissioner shall be the Commissioner who shall have been appointed by the Governor-General in Council.

Presiding Commissioner—how appointed.

Proviso.

Commissioner of Public Lands to be notified.

XIII. When any third Commissioner shall have been appointed, the said Commissioners, or any two of them, shall within thirty days after the appointment of the said third Commissioner notify the Commissioner of Public Lands in writing of such their appointment.

Notice of sitting of Commissioner.

XIV. The said Commissioners or any two of them, shall, upon the petition of the Commissioner of Public Lands, publish a notice in the "Royal Gazette" newspaper of this Province of a day and place in Charlottetown when and whereat they will hear and consider the matters referred to them under the provisions of this Act, relating to the lands of the proprietor whose Commissioner shall have been appointed, and in such notice shall specify the name of the proprietor or proprietors whose lands the Commissioners are empowered to value, and such notice shall be published for three consecutive weeks in the "Royal Gazette" newspaper of this Island.

Commissioner of Public Lands to be claimant in all proceedings.

XV. All proceedings under this Act shall be entitled in the name of the then Commissioner of Public Lands, who in his official capacity as such Commissioner of Public Lands shall be and be considered the claimant or applicant, and shall be subject to process of contempt, and shall be personally liable for the performance of all duties imposed upon him under the provisions of this Act, and for the costs of all proceedings in as full and ample a manner in all respects as though he were a Plaintiff in the Supreme Court or a Complainant in the Court of Chancery in any suit in either of said Courts.

Supreme Court to appoint guardian for lunatic proprietor.

XVI. In case any proprietor shall be a lunatic, a person of unsound mind, or a minor, or labouring under any other disability, and has no guardian, an application shall be made by the Commissioner of Public Lands to the Supreme Court for the appointment of a guardian for such lunatic, person of unsound mind or a minor, or such other person.

Supreme Court to appoint guardian *ad litem*.

XVII. Upon such application, the said Court may appoint a guardian, *ad litem*, for such lunatic, person of unsound mind, minor or other person.

Commissioner of Public Lands to appoint a solicitor.

XVIII. The Commissioner of Public Lands may appoint a solicitor to act for him in all matters required to be performed by him under the provisions of this Act, and any proprietor or party in anywise interested in the matter then pending, may be represented by Counsel before the Commissioners.

Subpœnas.

XIX. Either party shall have power to issue Subpœnas and Subpœnas *duces tecum* to witnesses to give evidence before the Commissioners, which Subpœnas shall be issued from the Prothonotary's office upon payment of the usual fees.

Commissioner to have power to examine on oath.

XX. The said Commissioners shall have full power and authority to examine, on oath, any person who shall appear before them, either as a party interested or as a witness, and to summon before them all persons whom they or any two of them may deem it expedient to examine upon the matters submitted to their consideration, and the facts which they may require to ascertain, in order to carry this Act into effect, and to require any such person to bring with him and produce before them any book, paper, plan, instrument, document or thing mentioned in such Subpœna, and necessary for the purposes of this Act; and if any person so subpœnaed shall refuse or neglect to appear before them, or appearing, shall refuse to answer any lawful question put to him, or to produce any such book, paper, plan, instrument, document or thing whatsoever, which may be in his possession or under his control, and which he shall have been required by such Subpœna to bring with him or to produce, such person shall, for every such neglect or refusal, incur a penalty of not less than five dollars or more than fifty dollars, payable to Her Majesty, to be recovered with costs in the names of the Commissioners, or any

To compel production of books, &c.

Penalty for refusing.

or either of them, upon bill, information or plaint, before the Supreme Court, and in default of payment, shall be imprisoned for a period not exceeding three months, in addition to any punishment for contempt which the Supreme Court may inflict.

Commissioners to be sworn.

XXI. The Commissioners, when appointed as aforesaid, shall make an oath before one of the Judges of the Supreme Court that they will well and faithfully discharge the duties imposed upon them under this Act, and adjudicate on all matters coming before them, to the best of their judgment, without fear, favour, or affection.

When Commissioners may proceed *ex parte*.

XXII. If any proprietor shall either by himself, his agent, guardian, committee, trustee or counsel, neglect to appear before the Commissioners pursuant to notice, under the provisions of this Act, the Commissioners shall be at liberty to proceed *ex parte*.

Commissioners may extend time to proprietor before entering on case.

XXIII. The Commissioners may, upon application made by any proprietor upon cause being shown to the satisfaction of the Commissioners, grant an extension of time to such proprietor before entering upon the hearing of such proceedings before them.

Commissioners to have power to enter on lands.

XXIV. It shall be lawful for the Commissioners to be appointed under the provisions of this Act, to enter upon all lands concerning which they shall be empowered to adjudicate, in order to make such examination thereof as may be necessary, without being subjected in respect thereof to any obstruction or prosecution and with the right to command the assistance of all Justices of the Peace and others, in order to enter and make such examination in case of opposition.

Commissioners may adjourn proceedings.

XXV. The Commissioners or any two of them may adjourn the hearing of any matter from time to time as they may deem necessary and expedient.

After hearing evidence Commissioners to award compensation.

XXVI. After hearing the evidence adduced before them the Commissioners or any two of them shall award the sum due to such proprietor as the compensation or price to which he shall be entitled by reason of his being divested of his lands and all interest therein and thereto.

No allowance to be made on account of sale being compulsory.

XXVII. The fact of the purchase or sale of the lands of any proprietor being compulsory and not voluntary shall not entitle any such proprietor to any compensation by reason of such compulsory purchase or sale, the object of this Act being to pay every proprietor a fair indemnity or equivalent for the value of his interest and no more.

Matters to be taken into consideration by Commissioners in estimating compensation to proprietors.

XXVIII. In estimating the amount of compensation to be paid to any proprietor for his interest or right to any lands the Commissioners shall take the following facts or circumstances into their consideration.

(*a.*) The price at which other proprietors in this Island have heretofore sold their lands to the Government.

(*b.*) The number of acres under lease in the estate or lands they are valuing, the length of the leases on such estates; the rents reserved by such leases; the arrears of rent and the years over which they extend, and the reasonable probability of their being recovered.

(*c.*) The number of acres of vacant or unleased lands; their quality and value to the proprietor.

(*d.*) (1.). The gross rental actually paid by the tenants on any estate yearly for the previous six years; (2.) the expenses and charges connected with and incidental to the recovery of such rent, and its receipt by the proprietor; and (3) the actual net receipts of the proprietor for the said period of six years.

(*e.*) The number of acres possessed or occupied by any persons who have not attorned to or paid rent to the proprietor, and who claim to hold such land adversely to such proprietor, and the reasonable probabilities and expenses of the proprietor sustaining his claim against such persons holding adversely in a court of law, shall each and all be elements to be taken into consideration by the said Commissioners in estimating the value of such proprietor's lands; (1) the conditions of the original grants from the Crown; (2) the performance or non-performance of those conditions; (3) the effects of such non-performance, and how far the despatches from the English Colonial Secretaries to the different Lieutenant-Governors of this Island, or other action of the Crown or Government, have operated as waivers of any forfeitures; (*f.*) the quit rents reserved in the original grants, and how far the payments of the same have been waived or remitted by the Crown.

Award of Commissioner—how to be published.

XXVIII. When the award shall have been made by the Commissioners or any two of them, the same shall be published by delivering a copy thereof to the proprietor, or to his agent, duly authorised as aforesaid, and filing the original in the office of the Prothonotary of the Supreme Court.

Government to pay amount of award into Colonial Treasury.

XXIX. At the expiration of sixty days from such publication of the award, the Government shall pay into the Colonial Treasury the sum so awarded by the said Commissioners or any two of them to the credit of the suit or proceeding in which such award shall have been made.

Notice to Prothonotary that award has been paid in.

XXX. The Colonial Treasurer shall, immediately after such payment, deliver to the Prothonotary of the Supreme Court a certificate of the amount paid into the Treasury, as aforesaid, which certificate shall be in the form of this Act, annexed, marked A.

Public Trustee to be appointed.

XXXI. It shall be the duty of the Lieutenant-Governor in Council to nominate a fit and proper person to be called the "Public Trustee," who, when the sum so awarded to the proprietor as aforesaid shall have been paid into the Treasury as aforesaid, shall (unless restrained by the Supreme Court or a Judge thereof), after fourteen days' notice to the proprietor or his agent authorised as aforesaid, execute a conveyance of the estate of such proprietor to the Commissioner of Public Lands, which said conveyance may be in the form to this Act annexed marked B.

Conveyance from Public Trustee to vest lands in Commissioner of Public Lands to be held and disposed of under provisions of 16th Vict., cap. 18.

XXXII. The conveyance mentioned in the last preceding section shall vest in the Commissioner of Public Lands an absolute and indefeasible estate of fee simple free from all incumbrances of every description and shall be held by and disposed of by him as if such lands had been purchased under the provisions of the Act passed in the sixteenth year of the reign of Her present Majesty Queen Victoria, Chapter Eighteen, intituled "An Act for the purchase of lands on behalf of the Government of Prince Edward Island and to regulate the sale and management thereof and for other purposes therein mentioned," and shall also vest in the Commissioner of Public Lands all arrears of rent due upon the said lands.

Appointment of Public Trustee to be under Great Seal.

XXXIII. The appointment of the Public Trustee shall be under the great seal of this Province, and shall be registered in the office of the Registrar of Deeds.

Party entitled to sum awarded—how to proceed to obtain the same.

XXXIV. The party entitled to the sum awarded, or any party or parties entitled to a portion of such sum for the lands so conveyed by the Public Trustee to the Commissioner of Public Lands, may receive the same by obtaining an order from the Supreme Court upon presenting a petition, and upon proving his or their right to such sum or any portion thereof: Provided that the Commissioner of Public Lands be made a party to such application.

Supreme Court to make proper persons parties to proceed ngs

XXXV. It shall be the duty of the Supreme Court upon any such application to require that all proper persons shall be made parties to such proceedings and to apportion such sums in such shares and proportions as such parties shall be entitled to receive.

Conveyance from Public Trustee to exonerate Government from all claims on the estate.

XXXVI. When the full sum for any lands shall have been paid into the Treasury and the conveyance executed by the Public Trustee to the Commissioner of Public Lands, the Government shall be absolutely exonerated from all liability to any person or persons whomsoever who may claim any estate so conveyed as aforesaid or any interest therein except as is mentioned in the next section.

Party obtaining amount of award to be paid his costs for application.

XXXVII. The party obtaining an order from the Supreme Court for any money to which he shall be entitled for his estate so vested in the Commissioner of Public Lands, or any interest therein, shall be indemnified in his costs incurred in making such application: Provided always, that no party shall receive or be entitled to any costs who has made an unsuccessful application to the Court for an order for the money so paid into the Treasury, as aforesaid, but such party shall pay to and reimburse the party who has received such order, such costs as he shall have been put to by reason of such unsuccessful application.

Proviso.

When lands taken from any trustees purchase-money—how to be invested.

XXXIII. When any estate shall be vested in the Commissioner of Public Lands under the provisions of this Act, which shall, previous thereto, have been vested in the name or names of any trustee or trustees, the Court shall order the purchase money of such estate to be invested in the name or names of such trustee or trustees upon trust to pay the interest arising from such investment, in the same manner and to the same parties as the rents, issues and profits of the said land were payable previously to the sale thereof.

Supreme Court to make orders as to investment of purchase-money to meet the case of dower estates, &c.

XXXIX. It shall be the duty of the said Court to make such order as to the investment and payment of the purchase money and the interest arising therefrom, as may meet the circumstances of each case, so that widows entitled to dower, infants, judgment creditors, mortgagees, and all persons entitled to any estate or interest in the said lands, or the rents arising or to arise therefrom, or the arrears thereof, may receive either the interest of the said purchase money when invested, as aforesaid, or the purchase money or shares thereof, as shall represent their estate or interest in said lands, or the rents arising therefrom, or the arrears thereof, previous to the vesting of the same in the Commissioners of Public Lands, as aforesaid.

Trustees to hold purchase-money upon same trusts as they held the lands.

XL. In every case when such lands have been vested in trustees, the purchase money shall be paid to such trustees, to hold the same upon the same trusts as they held the lands; and when there are no trustees the Supreme Court shall have power to appoint trustees, and shall, by an order or rule of Court, declare the trusts upon which they shall hold the said purchase money, and the manner in which the purchase money shall be invested.

When Supreme Court may appoint trustees. Supreme Court may dismiss trustees.

XLI. The Supreme Court shall have power to dismiss any trustee or trustees so appointed by them, and appoint a trustee or trustees in the room or stead of the trustees so dismissed.

Remuneration of Commissioners.

XLII. The said Commissioners shall be paid by the Government of this Province for their services under and by virtue of this Act, 10 dollars per day for each and every day such Commissioners shall actually be engaged in duties imposed upon them by this Act or by any reference in pursuance thereof, and such other reasonable remuneration as the Lieutenant-Governor in Council shall consider them entitled to.

Remuneration of Trustee.

XLIII. The public trustee shall be allowed such remuneration for his services as the Lieutenant-Governor in Council shall deem him entitled to under the circumstances of each case, which shall be paid by the Government of this Province.

When Supreme Court may remit award to Commissioners.

XLIV. No award made by the said Commissioners or any two of them shall be held or deemed to be invalid or void for any reason, defect or informality whatsoever, but the Supreme Court shall have power on the application of either the Commissioner of Public Lands or the proprietor to remit to the Commissioners any award which shall have been made by them to correct any error, or informality, or omission made in their award: Provided always that any such application to the Supreme Court to remit such award to the Commissioners shall be made within thirty days after the publication thereof as aforesaid; and provided further, that in case any such award is remitted back to the Commissioners they shall have full power to revise and re-execute the same, and their powers shall not be held to have ceased by reason of their executing their first award, and in no case shall any appeal lie from any such award either to the Supreme Court, the Court of Chancery, or any other legal Tribunal; nor shall any such award, or the proceedings before such Commissioners, be removed or taken into or inquired into by any Court by *Certiorari* or any other process, but with the exception of the aforesaid power given to such Supreme Court to remit back the matter to such Commissioners, their award shall be binding, final, and conclusive on all parties.

When application to remit shall be made.

Commissioners have power to revise award.

No appeal.

No *certiorari* or other process.

Supreme Court power to make rules.

XLV. The Supreme Court shall have power to make any rules and regulations not inconsistent with the provisions of this Act, for the purpose of more effectually carrying out the requirements of this Act, which rules shall be published in the "Royal Gazette" newspaper.

Supreme Court may appoint special sessions.

XLVI. Inasmuch as it is expedient that the matters referred to the Supreme Court under this Act, shall not interfere with the ordinary business of the said Court during term time, the said Court may, from time to time, appoint Sessions for the purpose of hearing proceedings under this Act: provided always, that one week's notice of such Session be given in the "Royal Gazette" newspaper.

XLVII. If the Commissioner of Public Lands shall neglect to proceed with any case pending before the Commissioners, or shall refuse to petition the Commissioners to appoint a time and place to hear the matters referred to them, under the thirteenth section of this Act, when requested by any proprietor who shall have appointed a Commissioner so to do, or who shall delay or impede the proceedings in any way, such Commissioner of Public Lands shall, upon proof thereof, before the Supreme Court, be punished by fine or imprisonment.

Penalty on Commissioner of Publi Land for neglecting to proceed under the provisions of this Act.

XLVIII. After the Commissioner of Public Lands shall have given notice to any proprietor, under the second section of this Act, no such proprietor to whom such notice shall have been given, shall maintain any action at law for the recovery of more than the current year and subsequent accruing rents due to him, from any tenant or occupier upon his lands, and in case any such action is brought against any tenant by any such proprietor, such tenant may plead this Act in bar of such action, nor shall any execution issue on any Judgment recovered or to be recovered for rent by any such proprietor against any tenant on this Island, except the current year's rent and subsequent accruing rents, and in case any such execution is issued, the Supreme Court, or a Judge thereof shall, on application, stay any such execution until the award of the said Commissioners shall be made.

After Commissioner of Public Lands shall have given notice to proprietor, he shall not collect more than current year and subsequent accruing rents.

XLIX. This Act shall be cited and known as " The Land Purchase Act, 1875."

Title of Act.

(A.)

Schedule A.

Dominion of Canada,
Province of Prince Edward Island.

In the matter of the application of X. Y., the Commissioner of Public Lands for the purchase of the estate of A. B. and " The Land Purchase Act, 1875."

I certify that the sum of has been placed to the credit of the account opened in the above matter, which said amount will be paid to such party or parties as the Supreme Court shall, by rule in the above matter, order and direct.

Form of notice from Treasurer to Prothonotary that amount awarded has been paid into Treasury.

Dated this day of , 187

Treasurer.

(B.)

Schedule B.

Dominion of Canada,
Province of Prince Edward Island.

In the matter of X. Y., the Commissioner of Public Lands for the purchase of the estate of A. B., and " The Land Purchase Act, 1875."

Know all men by these presents that I, C. D., the Public Trustee duly appointed under the provisions of " The Land Purchase Act, 1875," do by these presents and by virtue of this Act (the sum of dollars having been paid into the Treasury of this Province in the above matter, as appears by the certificate of the Treasurer of said province hereto annexed), grant unto X. Y., the Commissioner of Public Lands and his successors in office all that (here describe land particularly by metes and bounds) to have and to hold the same, together with all arrears of rent due thereon to the said X. Y., Commissioner of Public Lands and his successors in office in trust for such purposes, and subject to such powers, provisions, regulations and authorities in every respect, and to be managed and disposed of in such modes as are set forth, declared and contained in an Act passed in the sixteenth year of the reign of Her present Majesty Queen Victoria, cap. 18, intituled, " An Act for the Purchase of Lands on behalf of the Government of Prince Edward Island, and to regulate the sale and management thereof, and for other purposes therein mentioned," and of all other Acts in amendment thereof and concerning lands purchased thereunder by and conveyed to the Commissioner of Public Lands therein mentioned.

Form of deed from PublicTrustee to Commissioner of Public Lands.

In witness whereof I have hereunto set my hand and seal this day of A.D., 187

Witness to the execution by the said C. D.

A true copy, which I certify.

(Signed) FREDK. BRECKEN, *Attorney-General.*

Charlottetown, Prince Edward Island,
May 11, 1875.

Report of a Committee of the Honourable the Privy Council, approved by his Excellency the Administrator of the Government in Council on the 14*th June*, 1875.

THE Committee of the Privy Council have had under consideration the Report hereunto annexed, from the Honourable the Minister of Justice, in reference to an Act passed by the Legislature of Prince Edward Island during the last Session thereof, intituled, " The Land Purchase Act, 1875 ;" and they respectfully submit their concurrence in the said Report, and accordingly advise that the said Act receive the assent of your Excellency in Council.

Certified.

(Signed) W. A. HIMSWORTH, *Clerk, Privy Council, Canada.*

Department of Justice, Canada, Ottawa, May 26, 1875.

The Undersigned has the honour to report—

That, at the last Session of the Legislature of Prince Edward Island, a Bill was passed by both Houses, intituled, "The Land Purchase Act, 1875," which has been reserved by the Lieutenant-Governor for the signification of the pleasure of your Excellency in Council.

The objects in this Bill are the same as those contemplated in the Bill passed during the previous Session, intituled, "The Land Purchase Act, 1874," which was also reserved for the signification of your Excellency's pleasure, but which was not assented to by your Excellency for reasons contained in a Report of the Minister of Justice of the 23rd December, 1874. By referring to this Report it will be observed that the reason adduced for withholding your Excellency's assent was chiefly that no provision was made for an impartial arbitration, or in which the proprietors would have a representation in arriving at the value of their property; neither did it seem to provide for a speedy determination of the matters in dispute between the parties interested.

In the Bill which is now referred, those objections have been removed, and a fair representation of the interests of all parties concerned has been provided for, and an impartial tribunal has been insured to each proprietor, the Bill providing for the appointment of three arbitrators—one to be named by the land proprietor, another to be named by the Lieutenant-Governor in Council, and the third by your Excellency in Council.

The Undersigned is of opinion that the subject dealt with in the Bill is one coming within the competence of a provincial Legislature, and inasmuch as the objectionable features of the previous Bill have been removed, the Undersigned recommends that the Reserved Bill intituled, "The Land Purchase Act, 1875," receive the assent of your Excellency in Council.

(Signed) T. FOURNIER, *Acting Minister of Justice.*

CORRESPONDENCE relative to the Land Tenure Question in Prince Edward Island.

Presented to both Houses of Parliament by Command of Her Majesty. August 1875.

LONDON:
PRINTED BY HARRISON AND SONS.

258

PAUPER CHILDREN (CANADA).

RETURN to an Order of the Honourable The House of Commons, dated 8 February 1875;—*for*,

COPY "of a REPORT to the Right Honourable the President of the Local Government Board, by *Andrew Doyle*, Esquire, Local Government Inspector, as to the EMIGRATION of PAUPER CHILDREN to *Canada*."

Local Government Board, Whitehall, February 1875.

JOHN LAMBERT, Secretary.

(*Mr. Sclater-Booth.*)

Ordered, by The House of Commons, *to be Printed*, 8 *February* 1875.

Emigration of Pauper Children to Canada.

Llandulas, Abergele,
1st December 1874.

Sir,

In compliance with your instructions I have inquired into the system of emigration of pauper children to Canada under the supervision of Miss Macpherson and Miss Rye, and have the honour to submit, for your information, the result of the investigation that you directed me to make.

In this Report I propose to refer briefly to the system of emigration originally conducted by Miss Macpherson and Miss Rye; then to state

The circumstances under which pauper children came to be included in it;

The mode in which children of both classes are collected and sent out to Canada;

The arrangements for their conveyance from England to their destination and for their subsequent reception in the Dominion;

The mode of placing them out in service;

The conditions under which they are so placed;

The nature of the service and character of the Homes in which the children are placed;

The character and extent of the supervision subsequently exercised over them; and

I shall then, in conclusion, take leave to call your attention to what appear to me to be defects in the detailed arrangements of this scheme of emigration, and to submit to you such general remarks as occur to me upon the system generally and upon the results of it, so far as they may be judged of from an experience that as yet covers a period of barely four years.

The Report which I submit to you is founded upon statements of Miss Macpherson and Miss Rye as to the character of a large class of the children who are sent out as emigrants and as to the way in which they are collected; upon personal inspection and inquiry as to the arrangements for their conveyance from England to their destination; upon inquiry made at the several Homes as to the present position and past career of every pauper child who has been sent to Canada under the care of Miss Rye and Miss Macpherson; upon visits to about four hundred children, "arab" and pauper, widely distributed through the Provinces of Quebec and Ontario; upon correspondence with several employers; upon visits to schools; and upon personal communication not only with the children and their employers, but with people of all classes. By such means I have endeavoured to carry out your instructions, and to put before you the result of a sufficiently full and, I believe, quite impartial examination of the system. The difficulties of such an inquiry were very great. The information afforded to me at the Homes, notwithstanding the willingness of those in charge of them to give it, was very incomplete. The whole of that information, such as it is, I have arranged separately for your inspection. The task of visiting the children at the houses of their employers was most difficult and laborious. I had frequently to drive forty or fifty miles a day through a rough country to

see half a dozen children. The distances, as Miss Rye and Miss Reavell say, are enormous ; the farm houses are often in remote places and difficult of access, while, not unfrequently, the addresses given to me were incorrect. Still I am satisfied that I visited a sufficient number of cases, differing from each other, to enable me to take a correct view of the whole system. I have not made a statement or expressed an opinion unfavourable to it that I am not prepared, if called upon, to justify by the particulars of many cases in addition to those to which I have referred. To do this unnecessarily might tend to prejudice the system even more than the facts would warrant. Many persons in their disapproval of individual cases of hardship and neglect might fail to make allowance for the difficulties that these ladies have had to encounter, or to do justice to the good that they have undoubtedly effected.

Having been informed that Miss Rye would sail from Liverpool with a party of children on the 4th of June, I met the children there on the 3rd, accompanied them on board the "Sarmatian," and spent some time with them on the following morning before the vessel sailed. I had thus an opportunity of observing the arrangements that were made for the reception of the children at Liverpool, and for their accommodation on board. I did not leave England until the 25th of June. Upon arriving at Quebec I made inquiry as to the mode in which the children were received upon their arrival there, and sent forward to their several places of destination. I then proceeded to visit "the Homes" at Knowlton, in the Province of Quebec, Belleville, Niagara, and Galt, in the Province of Ontario. I subsequently visited about 400 of the children who had been placed out or "distributed" from those "Homes."

The children placed out in Canada by Miss Macpherson and Miss Rye are of two classes : pauper children who are sent out at the cost of the rates, and children rescued from the streets, "waifs and strays," "arabs," "gutter children," as they appear to be indiscriminately called by those who promote their emigration. Of pauper children sent out at the cost of the rates Miss Macpherson has distributed about *350*, Miss Rye about 800. The proportion of "arab" children distributed by Miss Macpherson is very much larger, while the proportion of "arab" children distributed by Miss Rye is considerably smaller. As the children are distributed over the Dominion, from New Brunswick to the remotest settled "concessions" in the West, it was obviously impossible for me to do more within a reasonable time than personally to visit such a number, about 400, in different parts of the Dominion as might fairly represent the average condition of the whole. In consequence of statements that were made to me I thought it right not to confine my visits to pauper children, but to extend them to the other class as well. In Canada no distinction is known between them. They are all "Miss Macpherson's children" or "Miss Rye's children," and as they are distributed without distinction, cases of success and failure are set down to the credit or discredit of the "system." No one in Belleville knows that the "arab" boy whom I found, one of the five inmates of the gaol of that town, has not come from an English workhouse, as no one in Niagara knows that the workhouse girl who is reported by Miss Rye as having gone upon the streets of Lewiston is not one of those who have been "rescued" from the slums of Liverpool or London. Upon the other hand, if I had visited only the "pauper" children I should have missed many very striking examples of success. For the first two or three days of my visits from each "Home" I merely accompanied some person connected with

it or who takes an interest in or is supposed to be responsible for the ordinary visiting or inspection of the children. I had thus an opportunity of observing how that duty is discharged. I then proceeded to visit the other children by myself, and to inquire generally into their condition and treatment.

Miss Macpherson desires it to be understood that her work is and always has been essentially, if not exclusively, of a missionary character. Except in the greater care and liberality with which it is carried on, I do not see in what material respect it differs from that of Miss Rye, or of any other agency for the promotion of emigration. These ladies bring out the same class of children and profess to distribute them on the same principle. They obtain their funds from the same sources, subscriptions and payment by Guardians, and both receive from the Governments of the Dominion and of the Province of Ontario considerable assistance "in aid of emigration." Miss Rye's account of her system will be found in her Circular A. in Appendix. The object at which Miss Macpherson aims and the means adopted to attain it are explained in publications in which from time to time she records the progress of her efforts. "From the time," she writes, "that we became "residents in Canada, and had a Home from which to distribute them, "we have followed out our original idea of becoming parents to these "rescued children, rather than simple emigration agents to supply the "labour market. As a missionary band we prayerfully wished to take "a life long interest in those we sought to assist, recording their well-"doing or their ill-doing upon our books, assisting the weak and sick, "rewarding the industrious, and giving wholesome advice and training "to those who fall back to their old habits." Describing one of "first meetings or tea parties for the wild arabs" of the East End of London, Miss Macpherson says:—"Pen cannot picture the scene at the close of "this gathering when the fatherless, motherless, friendless, and bedless "were invited to remain. Twenty-one lads were chosen. Their out-"ward appearance may be imagined when we say that there were found "among them only one garment retaining the form of a shirt and two "pairs of boots which had been bought at rag market, 'odd 'uns,' for "two-pence a pair. Their tatters, with two exceptions, were unfit to be "under a roof." * * * "The difficulty of finding employment for these "active spirits, owing to their want of education, brought us at once to "the decision to send the elder ones to Canada." Speaking of the class of children who compose the Scotch contingent to the army of young emigrants, Mr. Quarrier writes:—"We have been frequently asked how "we get the children? We go out on the streets and invite those who "are needy to come to the Home. We are known to most of the street "children. Some come asking to get in, and others are brought by "Bible women and missionaries." * * * "What sort of homes had "the children before you took them? is another question asked. I "reply, the night asylum, the police office, cold stairs, haylofts, and "barrels and boxes along the harbour." Writing in 1873, Miss Rye says in her annual report:—"One hundred and twenty-seven children "have during the past year and a half been received into the Home "from the streets and gutters, and back slums of London, and other "big cities. Of these, ten have been removed by friends, or proved "unsuitable to emigrate from various reasons, but the remainder were "sent to Canada." Such is the class of which, after a few months or weeks preliminary training, the emigrants sent out to Canada by Miss Macpherson and Miss Rye are largely composed.

In the mode in which the two schemes are carried out there is a good deal of resemblance. Miss Rye has a "Home" at Peckham, into

which she receives "waifs" and "strays," professing to train them for emigration to Canada. When an application is made to her, as often happens, to take charge of a child in whom some benevolent person may be interested, she requires the form B. which will be found in the Appendix to be filled up.

In a similar "Home" at Hampton Miss Macpherson receives the orphan and deserted children whom she takes under her protection for removal to the Dominion. In apparently direct connection with Miss Macpherson's mission there are "Homes" in Liverpool, Edinburgh, Glasgow, and Dublin, from all of which considerable numbers of children of a similar character are sent out to Canada. For the collecting and training of these children, and the subsequent emigration of a portion of them, very large sums, several thousand pounds a year, have been and continue to be contributed by private individuals. Considerable pecuniary assistance is also afforded by the Governments of the Dominion and of the Province of Ontario, in addition to a payment of 8*l.* 8*s.* for every pauper child taken out by these ladies.

Although in 1868–9 the Guardians of two or three Unions availed themselves of Miss Rye's assistance to send out a few pauper children with those from her own "Home," it was not until 1870 that the Poor Law Board sanctioned, by order, the emigration of pauper children to Canada under the care of Miss Rye and Miss Macpherson. In compliance with an application that appears to have been made in that year the Board dispensed with some of the regulations—the contract with the shippers, for example—by which the emigration of pauper children had been heretofore controlled. The emigration of these children was thus greatly facilitated. In the Annual Report of the Board for the year 1870 Boards of Guardians are urged to "avail themselves of the "means which the active benevolence of Miss Rye and Miss Mac- "pherson has provided for the welfare of the children" who are sent out as emigrants. This advice is grounded upon the assurance that "additional security for this purpose" (*i.e.*, the protection of young children) "has been offered by the satisfactory arrangements made by "these ladies, not only for proper superintendence during the voyage "but also for the support and treatment of the children on their "arrival in the colony, where suitable situations are found for them." It may be assumed that the confidence thus expressed by the Board in the system gave a considerable impulse to the emigration of pauper children, as the number authorised to be sent out in 1870 was only *146*, but had increased in 1871 to *461*.

Miss Macpherson has informed me that she makes no application to Boards of Guardians to commit pauper children to her care, that the applications come from the Guardians to her. Miss Rye, upon the other hand, makes her scheme known by circular letters, in which she explains the conditions under which the girls are put out to service, and undertakes that they shall "be looked after until they are eighteen years of age." The result is that a very large number of children, "arab" and "pauper," are now annually sent out by these ladies as emigrants to Canada. Several other persons have also embarked in undertakings of the same character. The children sent out are of all ages, from infancy to fourteen or fifteen, and comprise not only "arab" and pauper children, but also children from Reformatories. As a general rule, the "arab" children are received in the first instance into "the Homes" in England, where those of school age are supposed to be prepared by preliminary education and industrial training for the new life before them. From the nature of the cases dealt with, this preliminary training cannot be expected to be either methodical or systematic.

It is considered to be of the greatest importance that the children should be removed with as little delay as possible out of reach of the example and evil influences to which they have been heretofore exposed. Thus it happens that the "training" of the Arab children at the English Home, whatever may be its character, rarely exceeds a few months. In many cases indeed it may be counted by days. The pauper or Union children, however, have generally spent a few years in the workhouse school. In cases in which parents are living, their consent to the emigration of the children is said to be obtained. By Miss Rye the form of consent adopted in the case of children of widows will be found in Appendix C.

In the cases of infants, and of orphans or deserted children of the "arab" class, it is alleged that the authority of the legal guardian is obtained. This, I apprehend, will be found to be done in a very loose and informal way. The precaution is not adopted of requiring the consent of the children themselves to be given before two magistrates, as in the case of pauper children. One girl, of about 17, whose thoughts seemed to be ever turned homewards, assured me that although she was persuaded by her aunt to come out, yet if she had been brought before two magistrates (as pauper children are) she would have refused. I met with several cases of children sent out as "orphans" who had one if not both parents living.

As soon as Miss Macpherson or Miss Rye has collected a party sufficiently large (from one to two hundred), notice of the day of departure is given. The children from London come down in charge of Miss Rye or Miss Macpherson, or of some confidential superintendent. The children from remote Unions are sent to Liverpool, usually in charge of the Master of the Workhouse, who delivers them to Miss Macpherson or Miss Rye, or to the person appointed to receive them. Upon the occasion on which I saw the children, on the eve of their departure, about 150, two-thirds of whom were from Union Workhouses, were collected together at the Prince's Landing Stage. The children from the Bromsgrove Union were accompanied by the Master and Schoolmistress, who remained with them till their embarcation. The children from the Merthyr Tydvil Union were delivered by the Master to one of Miss Rye's attendants, with whom they were left upon the day of their arrival. The other children came under Miss Rye's immediate care. The children were all well dressed, and looked generally healthy and cheerful. Their ages varied from 6 to 14. Having remained for some hours in the shed of the landing stage, they were embarked on board the "Sarmatian," one of the Allan steamers. One of the children was detained owing to a suspicion of illness. She was removed to the hospital, and the case was declared to be one of measles. Miss Rye stated that this child appeared to be perfectly healthy when leaving London in the morning. Eight of the children were found to be ill of measles upon their arrival at the Home, Niagara, where there are no means of isolating such cases. The arrangements for the accommodation of the children on board the "Sarmatian" were, so far as the company were concerned, satisfactory. The agents of the Allan line and the officers of the ship showed the utmost anxiety to adopt any suggestion made by Miss Rye for the comfort of the children, and all their arrangements were on Thursday morning, when I again visited the ship, pronounced by the Government Emigration Agent and the medical officer to be in compliance with the regulations. Miss Rye accompanied this lot of children, who were under the immediate care of one matron who is in the habit of accompanying all the children sent out by Miss Rye.

Upon arriving at Quebec the children receive at the emigration sheds such attention as they may seem to require before starting by rail for their respective destinations. The emigrant agent at Quebec, Mr. Stafford, and the officials of the Grand Trunk Railway are always very gratefully spoken of, and most deservedly so, for their uniform attention to these children, as well indeed as to all other classes of emigrants. The children under the charge of Miss Macpherson frequently break the journey at Montreal, a distance of 180 miles. They are lodged upon such occasions at the St. George's Home, an emigrant depôt in the Coté St. Antoine, formerly under the control, I believe, of Mr. Pell. I visited that establishment, of which all I can say is, that under its present management the shorter the time children are allowed to remain in it the better. There are not, and indeed cannot be, such arrangements for the accommodation and classification of a large and sudden influx of young children as might be reasonably required, even though they stopped for only one night. The journey of Miss Rye's children is sometimes broken at Toronto, where she informed me room is found for them during their short stay at a hotel near the railway station. The children are then sent forward, those of Miss Macpherson to Knowlton, Belleville, and Galt; those of Miss Rye to Niagara. In addition to those distributed by Miss Rye from Niagara, she has also distributed 193 in New Brunswick and Nova Scotia, where she has no "Home," the children being consigned to the care of persons in whom she reposes confidence.

Before I refer specially to the several "Homes," I may observe of them all that they are described as being simply "distributing" homes, houses in which the children are received and lodged for a few days pending their being placed out in service.

"The Western Home" of Miss Rye at Niagara is the old gaol of the town, bought for Miss Rye by subscription, and so altered and improved as to be in many respects a suitable building. It is in a healthy position, and is a very cheerful residence. The situation, however, is far from convenient. It is close to the United States frontier, and is at the terminus of only a connecting line of railway. As girls alone are received in it there would be no necessity for arrangements to classify them, provided that the house was only a "distributing" home. But to this, as to the other "Homes," children who, from whatever cause, cannot keep their places are liable to be returned until fresh places can be found for them. Neither in "Our Western Home," nor in Knowlton or Belleville, is there any suitable provision for the reception and employment of children of that class. The necessity of some such provision is freely admitted, though if it were not admitted it would be easy to show, by reference to particular cases, not the inconvenience only, but the evil that arises from the want of such provision. The sleeping accommodation is quite sufficient for 120 children. But for so large a number the offices, washing accommodation, &c. would fall short of the official requirements of an ordinary English workhouse. The house upon the occasion of my visit, which neither here nor to any of the other Homes was unexpected, was in very good order, and scrupulously clean in all departments.

The structural deficiencies that I noticed at Niagara are still more striking both at Knowlton and Belleville. The sleeping accommodation at Knowlton consists of fixed wooden guard-beds one placed above the other—a very objectionable arrangement. Boys as well as girls are received in these "Homes," but beyond the provision of separate sleeping rooms there is no attempt at classification. In Niagara and

Belleville a room in the body of the house is set apart for ordinary sick cases. In Knowlton a  attic is divided by a partition, one half being appropriated as a sick room for boys, and the other for girls. But in not one of these Homes is there any means of isolating an infectious case, though it is not long since the Knowlton Home was visited by an outbreak of scarlet fever. It is true that since that time the " Home " has been removed to a more commodious house, but still without any means of isolating infectious cases. Amongst the children whom I visited, one had been a little while since returned to one of the Homes suffering from typhoid fever. The original Home at Belleville was destroyed by fire one winter's night in 1872. The house, furniture, and the whole of the children's clothing were burnt, the inmates, with the exception of one child, barely escaping with their lives. The present Home is pleasantly situated in the outskirts of the town, and was in excellent order when I visited it. There is no prescribed dietary in any of the Homes, but I was assured, not only by the managers, but by children who had been in them, that the ordinary diet was good and sufficient. In two cases, however, children complained that the food at Niagara was bad and insufficient. The general appearance of the few children who were resident at the time of my visit was healthy and cheerful. In the eastern townships children of farmers and working people, in such weather as I experienced, usually go barefooted, and are scantily clad. In that, as in other things, the custom of the country appears to be observed in Miss Macpherson's Homes, especially in Knowlton, the most eastern of them. The management of each Home is committed to a representative of Miss Macpherson at Knowlton, Belleville, and Galt, and of Miss Rye at Niagara. Miss Macpherson's Home at Knowlton is under the immediate management of Miss Barber, who is assisted by some ladies as visitors, and by volunteer residents in the establishment. Miss Barber is also aided by her brother, Judge Dunkin, who takes a very active interest in Miss Macpherson's work. To him I am indebted for the opportunity of visiting several children, in company with him, in the neighbourhood of Knowlton. The general character of the work at Knowlton may, I think, be fairly said to be the consigning of a certain number of children to Miss Barber to be placed out by her, and to be watched over by her, and the friends who assist her, Miss Macpherson being kept informed of what is done, and occasionally visiting the Home and some of the children. At this Home there are for the in-door or domestic work no paid servants or assistants. The duties that are undertaken by Miss Barber at Knowlton devolve upon Miss Bilbrough at Belleville.

The Blair Athole Home at Galt, which is under the care of Miss Reavell, was established by Miss Macpherson about two years ago, upon the invitation, as I understand, of a large number of residents in the neighbourhood. Although Miss Macpherson contemplates the making this an Industrial Training School, it is, like the Homes at Knowlton and Belleville, simply a distributing home. Describing Blair Athole, Miss Macpherson says :—" In connexion with the Galt Home we have pur-
" chased a small farm, and hope to work it by some of our boys, who
" may require further training, also endeavouring to improve their
" taste in the cultivation of flowers and shrubs, so that, by increasing
" their practical knowledge whilst under our influence, they may
" become more valuable to the Canadian farmer. In this way, whilst
" cultivating every available acre, their spare moments might be
" occupied in the lighter employment of beautifying the garden and

"house." As yet at least the object then proposed has not been attained, so far as Union children are concerned. No Union boy above nine years of age has remained in this Home for a longer period than six months. The average duration of residence would be three months. I should think that the same statement would apply to the arab children. The building appears to have been originally a small farmhouse, to which Miss Macpherson has made considerable additions, providing separate dormitories for boys and girls. The various duties that in these Homes devolve upon the superintendent are in Blair Athole discharged by Miss Reavell with a degree of zeal, intelligence, and good sense that appear to fully justify the great confidence placed in her by Miss Macpherson. The Home at Niagara has been for four years under the very efficient management of Miss Alloway, who, however, upon her marriage has just left it. There are in this Home a paid matron and servant.

In accordance with the municipal laws of Quebec and Ontario, the children upon arrival in these Provinces come under the absolute parental control of Miss Rye or Miss Macpherson, or of others to whose care they may have been committed by persons who have or are assumed to have authority over them in England. Whether children who are brought to Canada have been legally placed under the care of the persons who bring them is a point left wholly unnoticed by the authorities of the Dominion or of the Provinces. Indeed there appears to be nothing in the laws either of England or of Canada to prevent any person of a philanthropic or speculative turn, who can collect money for the purpose, from gathering any number of "waifs and strays and street arabs," and with their easily obtained consent shipping them to Canada, and through Canada to the States. Acting upon their legal authority, Miss Macpherson and Miss Rye proceed, upon the arrival of the children at the "Homes," to "distribute" them or place them out in service. The mode in which this is done differs somewhat, as do also the conditions of "adoption" or service.

Applications for children are usually made in anticipation of their arrival, and always, I am assured, in excess of the means of complying with them. Applicants for children to Miss Macpherson's Homes are required to send with their application a "recommend," as it is termed, from his or her "minister," and from a respectable resident. Upon the receipt of this "recommend" the application is usually complied with, and an agreement is signed by representatives of Miss Macpherson. A copy of this agreement lettered D. will be found in the Appendix.

In the eastern townships, in which the children from the Knowlton Home are distributed, the applications are sent to and determined upon by Miss Barber. In what may be called the Mid-Western District, which is supplied from the Belleville Home, the applications are disposed of by Miss Bilbrough, and in the Western District the applications to the Galt Home are disposed of by Miss Reavell. In addition to the information furnished in the "recommend" already referred to, the ladies who decide upon the applications have frequently some personal knowledge of the applicants or, as the districts are comparatively speaking small, have the means of making personal inquiry. It will be seen, however, in a subsequent part of this Report, that the persons who place the children out are often either misled or very imperfectly informed as to the character of applicants for children. Miss Rye has only one "Home," that at Niagara, though the area over which her children are distributed is very much larger than that of all the other "Homes" put together, comprising, as it does, New Brunswick and Nova Scotia, and the whole of the Province of Ontario, extending in

fact from St. John's to Sarnia. The precautions taken by Miss Rye to obtain information respecting applicants for children appear to be, upon paper, minute and careful. Upon the receipt of an application for a child, information is required as to the particulars of applicant's condition in life, &c., and further information is privately applied for. The forms lettered E. and F. will be found in the Appendix.

If the reply be satisfactory, the application for a child is complied with. Although Miss Rye has not the same means that Miss Macpherson now employs of distributing children through the several "Homes," she finds a substitute, that in certain cases at least is quite as efficient, the voluntary agency of private persons residents in particular districts. In the county of Durham, for instance, Mr. Robson, a gentleman of independent means, and his wife, undertake the placing out of the children. As many, I think, as a hundred children have been thus placed out without more than merely formal reference to Miss Rye. I went through a large part of that district, and personally visited about one third of the children in it. The duty that is voluntarily undertaken by Mr. and Mrs. Robson appears to be admirably discharged. In some other districts, however, Miss Rye does not appear to have been equally fortunate.

Such briefly is the mode in which the children are "distributed" or placed out.

The conditions or terms of service vary considerably. For the disposal of a large proportion of the girls, both Miss Macpherson and Miss Rye depend upon what they term "adoption." In the system of each this word has two distinct meanings. Very young children are "adopted" in the ordinary sense of the word. Mr. Robson, of whom I have already spoken, and Mr. Ball, of Niagara, have, for example, "adopted" each a very young girl whom they are bringing up as they would daughters of their own, providing for them the education and accomplishments suitable to gentlemen's children. Farmers and tradespeople whose children have settled in the world sometimes fill up the void by "adopting" an orphan child from one of the "Homes." Although I have seen several such cases of real adoption, they constitute, and will always constitute, but a small per-centage of children who may be placed out under any system of emigration. The other sense in which the word "adoption" is used is simply apprenticeship. Indeed Miss Rye places children out under what she terms "an indenture of adoption," while Miss Macpherson attains the same end, though without the same formality. This "indenture of adoption" deserves notice, not simply as illustrating the mode in which children are disposed of, but the sort of authority over them that is given to the foster-parents. A copy of it, together with copies of the indentures of apprenticeship and of service, will be found in the Appendix, lettered respectively G., H., I.

A very large proportion of Miss Rye's female children are placed out, or assumed to be placed out, under the "indenture of adoption," while a considerable number of Miss Macpherson's children are placed out upon the same conditions, but, as I have observed, without the indenture.

The girls who are placed out by Miss Rye avowedly in "service" are also placed out under an "indenture of service."

A third form of indenture adopted by Miss Rye is that of apprenticeship, a copy of which will be found in the Appendix.

Under these three heads of adoption of infants, apprenticeship by indenture, and ordinary service, all Miss Rye's children are assumed to be placed out. As a matter of fact, however, a very considerable

number of them are placed out without any such formality as an indenture of service, but simply upon a verbal agreement to the effect that after a certain age the child shall receive, either in addition to clothing or in lieu of clothing, so many dollars a year. I met with several cases of "adoption" in which the indenture of adoption had not been signed by the employers. The view that many of the children take of this form of "adoption" was expressed to me by one of them, an intelligent shrewd girl of between sixteen and seventeen. "Doption, sir, is when folks gets a girl to work without wages." The whole of this machinery of "Indentures," though it has a look of being business-like, appears to me to be worthless or delusive. To the employer it affords no security for the service of the child: to the child it affords no protection so long as there is no efficient agency to see to the fulfilment of conditions.

The object avowed both by Miss Rye and Miss Macpherson in settling children in Canada is to place them, if possible, in farm service. The cases in which children are "adopted" by people of the better class may be considered so exceptional as not to call for any particular notice. Those who are so adopted—I saw some of them—appear to be very fortunate indeed. A much larger class are cases of "adoption" with a view to the future service of the child. A good deal has been said and written about such cases, as if this sort of "adoption" were a matter of religious feeling or of sentiment rather than of business. Some such idea seems to have been in Miss Rye's mind when, in 1871, she wrote thus to the Board in reply to their question, what she does with children as young as five or six years old in Canada?:—"There are three distinct sets of people who apply to "me for the children. 1st. There are those who apply from the very "highest motives, viz., pity for orphan children, and a desire to be "fellow workers with fellow Christians here who are desiring to lessen "the amount of sin and suffering among children in England. This "class is limited, but a large class still in Canada, as Christian works "are necessarily limited in a country where there is very little sickness, "no poverty, or destitution. 2nd. There are those who, having married "young, and whose children have followed their example, find themselves at comparatively an early age, say 45, childless and alone in "life with more than they want in every sense of the word, to whom a "young child in the house is a boon and a blessing. 3rdly. There are "those who require children on account of their services, and who "willingly take them on account of their future usefulness." From my observation, and from inquiries that I have made, I am afraid that those who apply for children "from the very highest motives" are a very small class indeed. I think the first and second class of applicants taken together may be dismissed as really not providing for more than about ten per cent. of the young children who are sent out. There is indeed a very large class in Canada "who require chil-"dren on account of their services, and who willingly take them on "account of their future usefulness." In Canada it is as easy, as one of these good people expressed it, "to feed a child as a chicken," and that being so, "in view of their future usefulness," but without any thought of "lessening the amount of sin and suffering among "children in England," there is great readiness on the part of farmers and others to "adopt" in other words, to take into their service, children of tender years. Although I believe this is generally done as a matter of business, the very young children so adopted by farmers are usually treated with kindness, becoming practically members of the

family. But amongst the whole class there is a disposition to put children to work at a very early age. Although in this respect I should not wish to imply that an "adopted" child fares worse upon the whole than the farmer's own child, yet I am quite sure that the position of all these children adopted in view "of their future usefulness" is such as to justify the recommendation for more strict supervision which I venture to offer in another part of this Report.

There is a wide difference in the position of the employers with whom children are placed in service, whether under indenture or verbal agreement. Many of them are yeomen farming their own land of one or two hundred acres. Some of them are old settlers or sons of old settlers, living in good houses, a few of stone or brick, the greater number the ordinary Canadian plank house. Some of them, again, are only recent settlers, or men who have just taken up their allotment. I have several times driven through miles of forest to find the child of whom I was in quest in a remote log hut, or "shanty," the settler's first home, just put up upon the few acres of recently cleared land. It might be thought that the position of a child so placed would be exceptionally hard and dreary. I must say, however, that some of the best examples of adoption or service that came under my notice were in homes of that humble character. Employers and children seemed somehow to be mutually more dependent upon each other than in more thickly settled sections, and I saw quite enough of that class of people to feel justified in saying that, for a boy at all events, hardly any better class of service as a preparation for Canadian life can be found. A lad who has passed his early years in such service will have acquired the special knowledge that is essential for success in Canadian farming, and in which so many of our adult emigrants are so deplorably deficient. Except amongst the more wealthy class, gentlemen farmers, the children who have been adopted live with the family and are a part of it. It has more than once happened to me to have a former workhouse child for my neighbour at the abundant meal of which Canadian hospitality always expects the stranger to partake. This, however, is the bright side of the picture. Though generally kind and just, the Canadian farmer is often an exacting and unthoughtful master. Bound to make the most of his short season, he works through seed time and harvest from daylight to dark, and expects every hand that is capable of work to do the same. Many of the children who have been placed out in service at 13 or 14 years of age have certainly a hard time of it.

Farm service, however, forms only one, though the larger part, of the employments in which these emigrant children are engaged. Many of them, far too many, are placed out in domestic service in towns and villages. This is certainly the least desirable sort of service in which they can be engaged. It is no reflection upon any class of Canadian people to say that in no English town or village of about the same population and general character are children who are merely servants, and who are strangers and friendless, exposed to greater risks than in such a country as Canada. The facilities for getting employment and the temptation of a few dollars more wages induces constant change of place, unsettled habits, and an assertion of independence at an age that most needs restraint. The evil of this is much more felt in domestic service or other employments in towns and villages than it is in the country amongst the farming class. In saying this I only repeat what persons of experience, some of them connected with the "Homes," have often observed to me. It frequently happens, too, that the situations in

which children are placed in towns and villages are of a very inferior character. It is taking a favourable view of the position of a servant-of-all-work in the house of a small tradesman, or of a nurse girl in the family of a mechanic, to say that it is no better in Canada than it is in England. Some of the places indeed, are worse than a Board of Guardians would consent to place a child in in England. Finally, many of Miss Rye's children are in the States, some of them having been placed in service there : others having been induced to leave their Canadian service and go over the border.

I have said so much with reference to the character of the service and homes in which these children are placed as it may enable you to appreciate more fully the character of the supervision that is exercised over them and the view that I venture to take respecting it.

The children brought out by Miss Macpherson are, as I have already explained, distributed from three Homes—Belleville, Knowlton, and Galt. Miss Barber and the friends by whom she is assisted profess to visit and watch over the children who have been committed to their care. Miss Bilbrough and Miss Reavell perform the same duty in respect of the Belleville and Galt Homes, but they are assisted by Mr. Thom, who was formerly the schoolmaster at Miss Macpherson's Home in England, but who now devotes himself very assiduously to the duty of visiting the children in the Province of Ontario. Miss Rye does not profess to have any regular or organised means of supervision at all. Gentlemen like Mr. Ball at Niagara, and Mr. Robson at Newcastle, undertake voluntarily the duty of assisting in placing the children out in service, and of visiting them afterwards. Unless Miss Rye hears an unfavourable report with reference to any particular child, she appears to assume that it is doing well, and that it does not require attention from her. A very extensive correspondence, however, is maintained with employers. How far this is a satisfactory substitute for systematic visiting I shall consider presently.

Having described briefly, but I believe quite fairly, the system of emigration of children under the care of Miss Macpherson and Miss Rye, from their being collected in England to their being placed out in Canada, I shall now direct your attention to what appear to me to be defects in each stage of the proceedings, and then take leave to submit to you the conclusions at which I have arrived, upon the whole system as now conducted.

Of the children sent out, a large proportion, as I have observed, are described as being of the very lowest class—the semi-criminals of our large cities and towns. It appears to be thought that within a few weeks, in some cases indeed within a few days, these children who have grown up with the habits and associations that Miss Macpherson and Miss Rye and others describe can be brought under such moral and religious influence as to make it safe to place them out in service in a new country, and under conditions that are certainly not favourable to their future success. With these children are immediately associated the pauper children who are sent out by Boards of Guardians. These latter usually have had some few years preliminary education and industrial training. It might be difficult, even if it were desirable, to trace separately the career in Canada of these two classes of children, and to strike the balance of success or failure between them. In spite, however, of the prejudice, unfounded I believe it to be, that prevails in this country, as to the effects of workhouse training, it is most unfair to the children of Poor Law Unions that they should be associated in this scheme of emigration with the class of children to

whom I have already referred. The ladies who are most interested in the conduct of this enterprise must be sensible that Canadians who at first looked upon it with favour see reason, many of them to modify, and many of them to totally change, their first opinion of it. Amongst those who at the outset gave hearty support to Miss Macpherson's efforts was the Warden of the county of Hastings, in which the first Home, Belleville, is situated. In one of her earlier publications Miss Macpherson printed a letter from the Warden as evidence of the official favour with which her plan was received. That gentleman whose sympathies were at first so warmly enlisted in support of a benevolent scheme, and whose opinion is entitled to so much weight, has since repeatedly assured me, that he felt compelled, though reluctantly, to change his views of it. It would take a long time, he said, to eradicate the evil that had been produced in his own immediate neighbourhood by the class of children who had been imported into it. A dignitary of the Church of England in Canada, to whom I had written respecting a boy in his service, replies :—"From what I have seen of the "generality of the street boys who come out, it would be better for "the country to keep them until they are old enough to enlist, as "nothing but military discipline will have much effect on them, for "here they seem to think that they are not to submit to control, "but act as they think fit. This is owing in some measure, pro-"bably, to the unexpected change in their circumstances." A gentleman of the highest commercial position in an important town gave me the history of the brief period of service of one of those boys whom he had taken into his house. If printed it might be read as a chapter from the life of a modern Jack Sheppard. The managers of the Homes are familiar with numerous cases of complaints of insubordination, falsehoods, petty thefts, and of still graver offences. I confess I was surprised to find how frequently such complaints were repeated by employers during my visits, and how often I heard the determination expressed "never to take another." I do not say that such complaints apply exclusively or even more to what are called the "arab" children than to workhouse children, but they are made, and in too many cases I found them to be well founded. They will continue to be repeated until the whole system is brought into discredit, unless much greater care and discrimination are exercised in selecting and preparing the children for emigration. The first step towards improvement would be to avoid placing any child out in service who had not already undergone a reasonable period of industrial training. With that view it would, I think, be much better if the training Homes could be in Canada rather than in England. Indeed it would appear that the assent of the Local Government Board was originally obtained to the emigration of pauper children, upon the understanding that such Homes did actually exist in Canada. Writing to H.M. Secretary for the Colonies in April 1873, the Board, speaking of the emigration of children under the care of Miss Macpherson and Miss Rye, observe :—"The children emigrating under this system are, as "the Board understand, placed in the first instance in training esta-"blishments, where they are maintained and fitted for situations after-"wards provided for them." This no doubt is what ought to be done, but what is not and never has been done. In whatever way the change is to be effected, whether by a longer training in Homes in England, or by the substitution of Industrial Schools in Canada, it is certain that a radical change in this first stage would be absolutely necessary if the system were continued. If no steps be taken in this direction, Boards

of Guardians would not be justified in allowing the children, for whom they are responsible, to be mixed up and disposed of indiscriminately with these "Arab" children for whose welfare Miss Rye as well as Miss Macpherson are mainly interested. Of what these ladies have done, and are endeavouring to do, for that class of children it is impossible to speak too highly. Assuming that there is no exaggeration in the accounts that are given of the state out of which these children are "rescued" no person who has not seen them in their Canadian homes can realise the contrast between the past and present condition of a large number of them. But there remains a very considerable proportion indeed to whom the change is simply of country and climate, not of habits and character. No one can mix with the people, listen to their unreserved talk about these children, and hear the facts that are stated by them,—and in these respects I believe I have had opportunities not open to Miss Rye or Miss Macpherson or their representatives—without feeling strongly that the system is becoming discredited through the incapacity, unfitness, too often the gross misconduct of many of the children who are sent out. The fact that these children get places, and when they leave them get other places, and manage to keep them for a year or two, must not be taken to prove that their employers are satisfied with them, even while they keep them. So great is the demand for the sort of service that even young children can render, that, as I have often heard it expressed, "we must put up with anything." The conditions of service too are generally so much in favour of the employer, that in consideration of getting cheap labour he may be willing to "put up" with serious faults of character and conduct. However that may be, it is certain that there is much greater dissatisfaction with these children, though it may not be as yet very openly or very generally expressed, than probably Miss Rye or Miss Macpherson are aware of. This feeling arises, I am sure, in a great measure from the fact that children are sent out who are wholly unfit for the position into which they are suddenly thrown.

No child, boy or girl, of the age of say 12 years or upwards, ought to be put out to service in Canada unless after two or three years preliminary industrial training. For girls that training should be, if possible, in the families of Canadian householders. To gather children of that age off the streets, or to accept them from guardians without satisfactory assurance of their fitness for service, and to send them out to take their chance of finding those "splendid homes" in Canada that are written about, is really to do serious injury to the children, and to permanently prejudice a system of emigration that, if properly organised, might effect infinite good to the Dominion if not to England.

The mode of removing these children from England to Canada would be less open to objection than it is if they were not brought out in such large numbers at a time. Parties of about 50 would be much more manageable on board ship, on that tedious and fatiguing journey from Quebec to their destination, and above all in the placing of them out in service. I have already stated that the party (150) whose departure from Liverpool with Miss Rye I witnessed was under the charge of a matron, who appeared to be a kind and intelligent woman. But her duties, children who came out under her care told me, did not involve the sort of service of which children under such circumstances stand most in need. Nor would the attendance of one person, even if wholly given to so large a number of children, mostly girls, be sufficient. Describing her first passage out with a hundred boys, Miss Macpherson speaks of "nearly all the lads being very sea sick" for the first few days. "They lay like herrings in a barrel around the funnel on

" deck, in nooks under the small boats; some too bad to be hauled " up the ladder. No small work was it to cheer and rouse them out " of this condition." The case must be much worse with girls. As they as well as boys are restricted to the emigrant's allowance of sleeping space, the " bunks " being so arranged as to make it almost impossible, quite impossible in a heavy sea (when, as one of them said to me, " we all sicked over each other,") for the children to get in and out without assistance. Every party of these young emigrants should be accompanied by as many female attendants, accustomed to the sea, as would secure the undivided service of one to a certain fixed number of children. Such an arrangement is the more necessary, as the personal cleanliness of the children is very much neglected during the voyage. Upon their arrival at the Homes a very considerable number of them are found to be in a most filthy condition, their heads swarming with vermin. Several employers having stated to me that they received them in this condition, I brought it under the notice of the authorities of the Knowlton Home. The explanation given of children being allowed to leave in such a state was, that people were so impatient to get them that, although cautioned as to their condition, they would insist upon taking them. Children, I was assured, are not allowed to leave Miss Rye's Home until they are in a fit state. With reference to her children, however, I heard of more than one similar complaint. Upon their arrival at Niagara they are described as being usually in as bad a condition as the others. Greater attention during the voyage might, to some extent at least, obviate this cause of complaint.

The " Homes " in which these children are received are not, as I have already said, intended for more than their temporary reception, pending their being placed out in service. If they were restricted to that, though some of the arrangements are far from satisfactory, it would be unreasonable to insist upon those conditions that are deemed essential in English workhouses. But a very brief experience must have satisfied the managers of these Homes that they cannot avoid appropriating them to other uses besides that of receiving children for the purpose of distribution. Children are for one cause or other constantly returned to them. The average number of returned children in Miss Rye's Home, she informed me, was about 20. If returned for any other cause than illness, there ought to be the means of employing them, of trying to cure, by systematic industrial work, the faults for which in nine cases out of ten they are sent back. These Homes, too, ought to be much more accessible to children than they are. The managers of them profess indeed to encourage the children to look to the Homes as places of refuge in any time of trouble or distress. I cannot say that I think they have been successful in creating such a feeling of confidence. Over and over again I have been told of the dread of children to go back to the Home, and employers have observed to me, that as a last resource, when all other means had failed, they had to " threaten to send them back to the Home." " She would like a " visit from Miss Rye, sir, very well, but you cannot scare her worse " than to threaten to send her back to the Home," was the remark to me of the mistress of one of these girls. A case was mentioned to me of a child who on her way back to " Our Western Home " was noticed crying in the railway station. She was accosted by a woman who, upon hearing her story, sent her upon her own authority to a place of service hard by. It may be difficult to deal with cases of this sort, to make it easy for children to return without at the same time weakening the

motives to good conduct. The difficulty, however, is unavoidable, and should be met by classification, discipline, and systematic work under an efficient staff of officers. In every one of these establishments, even in those in which boys only, or girls only, are received, there should be means of keeping the very young apart from those who might be returned for misconduct. Suitable provision should be made for sick and infectious cases. Regulations adapted to the character of the establishments should be prescribed. All these establishments should in the first instance be certified as industrial schools are certified in England. They should be periodically inspected, as workhouses are in England, by an officer either of the provincial or county government, or by some person appointed for the purpose, and wholly independent of the managers, and they should be visited from time to time by a visiting committee, as workhouses are in England. Such arrangements would be as much in the interest of the managers of the establishments as of the children who are received into them. Several children have complained to me of their treatment while in one or other of the Homes. One intelligent girl complained that "the "bread was mouldy, and what was called meat was unfit to eat." Another, to whose truthfulness her mistress testified somewhat emphatically by saying "You couldn't hire that girl to tell a lie," described to me her punishment at "Our Western Home" for having been returned for bad temper, or, as I find it recorded by Miss Rye, "violent temper." She was placed in a room at the top of the house (it is a large airy room) and kept there in solitary confinement for 11 days upon bread and water, without book or work to divert her thoughts. The only persons she saw during that time were the child who brought her her bread and water allowance, and Miss Martin, who used to ask her if she had received it. If that statement be true, should not some prescribed regulations put it out of the power of any irresponsible person to do so grievous a wrong to a child for any offence whatever? If it be not true, the visits of a committee, and the record of an "Offences and Punishment Book" would be Miss Rye's best protection against having such a story caught up and repeated by persons in Canada who are but too eager to give ear to any statement to her prejudice, or to the discredit of a system in which she is so deeply interested. Neither in the townships nor in the counties of Ontario, I except the large cities, are there hospitals or refuges to which the "Homes" can subscribe for the reception of patients. Cases of sickness, however, are not unfrequent, and during my short visit two cases of illegitimate births came to my knowledge, the mothers being young girls, one brought out by Miss Macpherson, the other by Miss Rye. People who promote the emigration of children should bear in mind that in Canada there are no poor laws. Even those who contend that a country, especially a new country, will get on better without them cannot but admit that orphan and deserted children sent out as emigrants stand in altogether an exceptional position, and should not be deprived of that help in distress that the law would have given them had they not been removed from their own country. It appears to be but reasonable that up to a certain age every child should be entitled to admission to, and support, when "destitute," in the Home from which it may have been sent into service, of course under such strict conditions as should guard the right from being abused, or from operating as an inducement to idleness or misconduct. It may be enough to say now, of the two cases to which I have just referred, that the circumstances of them illustrate very forcibly the defect of these "Homes" in not

having been organized so as to provide for the relief of such cases, and indeed of all cases of destitution, from whatever cause, that may arise amongst the children who have been sent from them into the world.

As to the effect of the mode of distributing the children I would specially direct your attention to the list of cases to which I have already referred. It contains all the information that I have been able to collect with reference to every pauper child who is alleged to have been sent out under the care of Miss Rye and Miss Macpherson. That information is exceedingly meagre, and the fact that it is so is a very strong ground indeed of dissatisfaction with the whole system of emigration as it has been heretofore conducted. But what I desire to call your attention to now is the evidence furnished in this statement of the frequent and early change of place by the children. Owing to the very rapid dispersion of these young emigrants, the sending them into service immediately upon their arrival in Canada, Miss Rye or Miss Macpherson, or their representatives, can know very little—in the majority of pauper cases absolutely nothing—of their character or disposition, or peculiar aptitude, if they have any, or unfitness for service. Yet the success of a child will very often depend upon its finding a suitable first place, to use Miss Macpherson's phrase, upon selecting the child "most suited to the requirements of the situations." When one thinks what must be the depressing effect upon a child of being sent back to the "Home" disappointed and discouraged by early failure, it is impossible not to feel very strongly that those who assume the responsibility of finding homes for them should have patience—keeping the children, notwithstanding the additional expense, until they could learn something of their tempers, dispositions, and fitness for service, and something too of the temper and disposition of the people to whom they send them, so that there might be a reasonable chance of employer and child getting on together. The importance of carefully selecting the places for these children appears to have been fully appreciated by Miss Macpherson in the earlier days of her work—"when we were able calmly to see the "masters, and talk over each individual character, telling all antece- "dents, and, as far as we were able, fitting the capabilities of the boys "to the requirements of the situations." Giving an account of a meeting at Ottawa, she recounts how "at the close of the meeting a "fine-looking farmer's wife came forward and said: 'I will be respon- "'sible for eight of your boys; my home is upon the Ottawa river; "'my sons live all around our parent homestead and will take one "'each. The Rev. J. McClaren will give our recommend; we are old "'settlers.' Notwithstanding the heartiness of this offer *we judged it "best that the homes should be seen;* so Mr. Thom, our superintendent, "saw each boy placed ere he left the district, and intends to visit them "again at the end of the first quarter. *It is by this wholesome super- "vision that much disappointment which would necessarily ensue has "been hitherto prevented.*" To some extent this "wholesome supervision" is still exercised from all of Miss Macpherson's Homes, each of which she has been fortunate enough to be able to place under the care of a volunteer superintendent animated by her own zeal, and labouring in her own spirit of devotion to her work. That which appears to be the most important, as it certainly is the most successful, part of that work—the placing out of very young children for adoption in families—is done to a greater extent from the Belleville Home than from any other, and is, so far, done almost exclusively through the personal exertions of Miss Bilbrough. The liberal and unostentatious way in which that lady devotes the rare gifts with which she is endowed to the fulfilment of very onerous duties is beyond all

praise. But it is impossible for any of those who are responsible for placing the children out to have sufficient previous knowledge of the homes to which they send them. "The homes should be seen," but they are not seen. The truth appears to be, that in this respect, as in others, the work has rapidly outgrown the means provided for carrying it on, assuming that the means were sufficient at the outset. Miss Macpherson trusts to agencies that are wholly inadequate for obtaining requisite information; Miss Rye trusts to the accident of being able to find persons in different districts who will relieve her from the responsibility not only of finding suitable homes but of looking after the children when they are placed in them. As to the "recommends" that are required their value is not much. A farmer's wife who had one of these children observed, "My minister may know that ours "is a respectable family,—but I guess he can know very little about "my being fit to bring up a child." What the Poor Law Board wrote in 1870 with reference to "boarding-out" in England applies with even greater force to Canada: "Experience has conclusively proved that "unless the homes are carefully selected by persons who have an "intimate knowledge of the locality, and who at the same time take "a responsible interest in the children to be placed out, great abuses "are quite certain to ensue." As a rule, the homes in which children are placed in Canada are not so selected, and it is very certain that "great abuses" do "ensue." Had all the homes been "selected by persons who have an intimate knowledge of the locality," children would not have been placed in such homes as those in which I found some of them, nor if strict inquiry had been made both as to the requirements and character of applicants for children should we hear of such cases as a child being brought back, because it was "too small," then sent to another place "next day," then brought back "because the man drank;" a second brought back "because he was with rough men and learning to swear;" another—several others—for being "too small," as if that could not have been seen before the children were placed out; another because "his master drank;" several changed because "people were not kind to them;" several cases of children being removed because "Miss Rye was not satisfied with the place." I also met with several cases of children being transferred from one place to another, sometimes with the consent of Miss Rye, but without independent inquiry as to the character of the new place, and sometimes without Miss Rye's consent or without her knowledge even. Cases of the sort to which I have just referred—and they are numerous—illustrate very forcibly the necessity of some local committee or other agency, so that "the homes may be carefully selected by persons who have an intimate knowledge of the locality."

If Miss Rye and Miss Macpherson were less anxious to get the children off their hands immediately upon their arrival, not only would they be able to exercise greater discrimination in selecting places, but they would be able to get them out upon better terms.

I cannot help thinking that in a country in which wages are so high, and the cost of living, for a child in a family at least, so low, the terms of service are for the children less favourable than they ought to be. No one can wonder at the restlessness and dissatisfaction of boys and girls of fifteen and sixteen who find themselves "adopted," that is, bound to serve without wages, merely for their maintenance and clothing, until they are eighteen. It is easy to understand that Canada, or indeed any other country, can "absorb" any amount of labour upon such terms. I may here take notice of an impression that appears to prevail very generally in Canada, the expression of which it is difficult to hear—and

I was often compelled to hear it—without impatience, not towards those who, having it constantly dinned into their ears, may naturally enough entertain it, but towards those who are responsible for producing it and keeping it alive. Frequently, when I was unable to recognise any very marked contrast between the condition of pauper children in Canada and of the same class in England, I was reminded that at all events they "have three good meals a day instead of starvation, they have the "prospect of escape from misery and degradation," and so on, in the terms with which one has become familiar in this country. If Union children cannot be disposed of in Canada, except by sending them out with the brand upon them with which they are often so unjustly marked in England, if they must be presented to the people of Canada as objects of pity, to be taken into service as much for charity as for what their labour is worth, it would surely be better to keep them at home, letting them take their chance of what Guardians can do for them amongst their own people.

The want of sufficient care in selecting homes for the children, though a serious defect in this system of emigration, is far less injurious in its results than is the want of proper supervision of them afterwards.

Children who are placed out at an early age, who are really "adopted," become part of the family, forming strong attachments in it, and having the protection of foster-parents whose love for them is, I am satisfied, very often as warm as for their own. But the girls of 12, 13, and 14, who are placed under the indenture of adoption or engagement of service for three, four, or five years, are simply servants, very often I have found dissatisfied servants, looking forward anxiously to being, as their phrase is, "my own mistress." I was frequently cautioned by employers in the course of my visits against letting these girls know that in a year or so they would be at liberty to seek places for themselves. When they become aware of it they are not slow to avail themselves of this newly acquired independence. One girl of about 17 in an excellent place in a clergyman's family, "did not intend to stay beyond next fall." She had nothing to complain of, she was treated with great kindness, but "the place was dull, there was no life in it," and she "thought she could get more wages elsewhere." Another complained bitterly of having been sent to a hard place; she had been (she said) compelled to work in the fields with hired men; she left—ran away in fact—and got a situation for herself. She "did'nt want Miss "Rye's help. Miss Rye had placed her out for three dollars; she found "a place for herself where she was getting four." These two were strong, healthy, well grown and well looking girls. Now Miss Macpherson and Miss Rye must be aware from cases within their own knowledge, as well as within mine, to what this sort of independence is likely to lead. Such cases may as yet be few; but the great bulk of these girls are as yet children. Their position when they have completed their term of adoption or apprenticeship cannot fail, I am sure, to be a source of considerable anxiety to those who are responsible for bringing them to Canada. They will find themselves without friends or advisers, and, as a rule, without associations that attach them to families or to neighbourhoods in which they are known. Facilities of communication are great; situations easily had; wages high. Girls will be naturally attracted to towns and cities where the difficulty of finding domestic servants is so great that employers who wish to keep them cannot venture to impose even reasonable restriction upon that excessive personal independence that in Canada seems to characterise all service. Some protection against dangers to which girls would be thus

exposed might be found in the careful placing of the children at a very early age, and then by close and systematic supervision, first by committees of respectable people who might be induced to take and maintain an interest in the children, and whom the children would by degrees come to know and to confide in; and then by persons specially appointed for the purpose, and wholly independent of those who might be engaged in the administration of this system of emigration. The preliminary service by adoption or apprenticeship of children in Canada, as well as the actual adoption of infants, appears to me to stand upon precisely the same footing as "boarding out" in England and Scotland, and to require, even more than in England and Scotland, to be guarded by similar precautions. Addressing the Guardians of the Evesham Union in 1869, the Board observe :—"The arrangements for the inspec-
"tion of the children in Scotland are very rigorous, and a careful
"organisation is employed for the purpose of selecting the families
"with whom the children are to be placed. It is evident that the
"most disastrous consequences would ensue if the greatest vigilance
"were not exercised in this respect." Again, in the circular letter that accompanied the boarding-out order, it was observed :—"The
"Board could not sanction the placing of children in distant homes
"without a definite plan being submitted to them for the superin-
"tendence and regular visiting of the children thus boarded out.
"Article I. accordingly contains a proviso, that satisfactory arrange-
"ments must in all cases be made with two or more persons, to be
"called the Boarding-out Committee, for finding and superintending
"such homes." As, in the opinion of the Board, "the success of the
"system appears to depend entirely on the regularity of the inspection
"of the homes where the children are placed," provision is made by the order for periodical visits at intervals not longer than three months by members of the Committee, and "the Board think it important that
"besides the visits of the members of the Committee an official inspec-
"tion should be instituted, though at less frequent intervals." While stringent regulations in accordance with these views are laid down in England and Scotland, no official safeguard of any description whatever is provided for the protection of children who are scattered over the Dominion. The necessity of systematic supervision is fully admitted by Miss Rye, who has not provided for it at all, and by Miss Macpherson, who has provided for it very imperfectly. Writing to the Poor Law Board in 1872, Miss Rye was of opinion that when the work grew inspection would be necessary, and, having at heart the future success and permanency of her system of juvenile emigration, she is now of opinion, as she has several times intimated to me, that to that end the organisation of a scheme of periodical visiting and reporting is indispensable. Indeed, girls are intrusted to her upon her undertaking that they shall be "looked after until they are eighteen years of age." Nor has Miss Macpherson by the partial system of supervision that she has adopted avoided the risk at which she hints when she writes :—"It would be
"easy to set the little emigrant afloat, and as it were let him 'paddle
"his own canoe' on the ocean of life, inquiring no further as to his
"welfare." But this, unhappily, is just what has been done. The little emigrants have been set afloat, and too many of them let to "paddle their own canoes" until, as Miss Macpherson might express it, some of them have gone over the rapids, and others are already lost sight of in the great human tide of the Western cities.

In a letter addressed by Miss Reavell, who has the care of the Galt Home, to Miss Macpherson, as late as April 1874, there is a frank admission of the defects of the present system of visiting, and some

sensible observations upon the necessity of improving it. She observes: "The distances being great, and Home duties numerous, we cannot "visit the children as we would wish." * * * * * * * * * "It would occupy one's whole time to do it satisfactorily;" she finds that "a visit to a child with a word of encouragement or advice is of "great service;" and regrets her "inability to make this more frequent "and general." Although much assisted by voluntary agents and by occasional transatlantic visitors, Miss Reavell is evidently sensible of the defects of the present system, and of the great need of a well-organised system of visiting. What Miss Reavell says of the Galt district may with equal truth be said of Knowlton and Belleville. It would be quite impossible for the ladies who are in charge of these Homes to do more than pay an occasional visit to children who might happen to be within an easy distance. It is true that the Galt and Belleville districts have the advantage of being visited by an agent appointed for the purpose, but however great may be the zeal and activity of Mr. Thom, and he is very zealous and very active, it is impossible that he can do more than pay an occasional visit to some of the children. The result is that cases very frequently occur that require attention but do not receive it, and that all the information that is possessed with reference to a very considerable number of the children is merely hearsay, something that a neighbour says or may have heard somebody else say. Take such a case as that of A. P., who had been nine years in the Southampton Workhouse where his conduct is reported to have been "fair," to whom no visit appears to have been paid, but of whom "satisfactory accounts" were for some time received from his master, who applied to have another boy sent to him; then wrote again, "but not in a nice manner;" then complained that the boy would not attend Sunday school; then neglected to answer "several letters" that were addressed to him; yet no visit is paid, but the superintendent of the Home hears, from somebody, that the boy had stolen $100, and was sent to the penitentiary. Reading this, and observing how many more cases are left wholly unvisited, and how many are very imperfectly visited, it is easy to see how this emigration has outgrown the means at first provided for carrying it on, and how far short it falls of Miss Macpherson's first intention when she wrote:—"Our plan of emigration involved more than is usually under-"stood in such work. We felt that we had no right in the sight of "God to rescue a lad and send him afloat to find his way by himself as "he best could in a new land, but that we should follow him on "through life, and have faith to meet him, when life is over, on the "shore of eternity. To do a smaller work of emigration in this way "appeared to be our Father's will." The "smaller work of emigration," however, has been abandoned—only temporarily it may be hoped—for one very much larger and more unmanageable, in which the child is certainly not followed through life, or through the most perilous period of it. Fortunate it is that "the boys and girls in our land" did not a short time since respond to the very earnest appeal of Miss Macpherson, by "setting to work" to collect "five pounds per head," so that "by "next spring we may have the joy of starting off a thousand young "hopefuls from our dens of vice" to the Province of Ontario. Again, take the case of S. M., a girl of 18, who was brought out in 1871. She had been an inmate of Southampton Workhouse for four years, where she is reported to have been "fairly intelligent," "conduct good." The following is the information respecting her received from the Home: —"Placed from Montreal in a good home with a lady there. Wrote occasionally saying S. M. was a great trial, that she had done all for her

" she could; wrote end of January 1872, she wished to send her up to " the Home. Wrote it was impossible for me to receive her, as the Home " was burnt; to wait till we had another. Sent her in a fortnight saying " her character was so bad she would keep her no longer. Remained " one night at our friends. L. W. T. drove her out to a situation at " Frankfort, near her sister, May 2nd, 1872. Heard from Mr. F., of " Frankfort, she was doing badly and had left several places. Returned " to the Home. Found her a place near Stirling; soon left. January " 1873, called at the Home; seemed giddy and light; long talk and " advice. October 1873, a woman called, said S.M. had lost her character; " was in need of clothes. Sent her large parcel, and went to see her; " seemed very hardened. March 1874, sent both money and clothes to " help her during illness; child died." I call your attention to this case because it appears to me to illustrate most of the defects of the system to which I have already referred. It appears that the girl was placed in service in the city of Montreal immediately upon her arrival from England. Her mistress wrote occasionally complaining of her, but no one appears to have made inquiry until she was returned to Belleville in January 1872. The "next day" she is placed in a fresh situation, after which it is "heard" that she is "doing badly and had left several places." In January 1873 she called at the Home, and "seemed giddy and light; long talk and advice." As I have already observed, there is no provision at the Home for the reception and proper treatment of children who return under such circumstances. If there had been it is possible that the future of that girl's life might have had a different course. I am sure that she received very good advice, and that it was given in a very kind and judicious spirit. Still advice was apparently all that she did receive; and in the following October a woman called to say that the girl had "lost her character, and was in need of clothes." She was visited by the lady in charge of the Home, and "seemed very hardened." With the assistance of Mr. Thom and of the medical gentleman who attended her in her confinement, I traced the girl to a low lodging-house. As she complained very bitterly of her treatment, but without being able to state a single fact in support of her complaint except that she was refused admittance to the Home, I arranged that she should see Miss Macpherson on the following evening in my presence at the Home. I received from her, however, in the evening the following letter. I do not hesitate to submit it to you, although I am satisfied that the conduct of the lady who is referred to in the letter was not such as to warrant the tone in which she is spoken of. The girl consented, however, to come to "the Home," and had an opportunity of making her complaint in Miss Macpherson's presence. She could allege nothing more definite than that she had been scolded, had been sent to hard places, and had been refused admission to the Home. With this explanation, and for the reason I have already stated, I think it but right to let the girl tell her own story:—" Dear Sir,—I write to tell you that I would very " much like to see you on Wednesday, but no, I cannot any more " have the heart to go to Marchmont, for it has never been a home " for me, although it was told to me and all the rest, that when we " came to Canada it was to be a home. But, sir, I have known the " time when I would have been glad for a bit to eat and a bed to lie " on, for I my own self have had to sleep in barns for a shelter when " the snow have been so thick, and no person would be seen out, and " have been to Marchmont for a shelter, and was turned away, so " that I have nothing to thank them for. If I had only taken my " parents' advice I would not have been here, but as long as they can

" bring out poor children to be pounded half to death, and slave to the " uttermost, that is all they care for. I know ———— has got me " several places, and me not know how to do their work as they did; " they would scold, and offer to strike me, and of course I would leave; " and another thing, I was not going to be told that I was glad to come " to Canada, for I was half starved, and was picked off the streets in " London, and my parents were drunkards. Dear sir, nobody knows " what a girl has to put up with that comes from the old country, for " they know we have no parents to take our part, and they can do as " they like. It is well for ———— to talk about the girls that is " working for their living, she does not know what a girl has to put up " with. I always tried to do what I could, and every time I went to " ————, she would always be scolding and telling me things " what folks said about me, and I always thought I would not try to " do right any more, for nobody cared for me; for there was a time " when I was sick, and had all my clothes taken away to pay for my " board, and only one dress to cover me, and was obliged to borrow " money to get clothing with. I have been in Canada three years, and " have worked my way through sorrow and woe, and can do so still, even " when we were so far away from our parents. They would not let " me see the only sister I had, and there is many more just like me, so " when I get better and able to go work, I am going to New London, " and I was a very foolish girl to leave England, for I had a good home " if it was a orphan's home. I must conclude.—I remain, your humble " servant, S. M."

It is due solely to the extreme kindness of Mr. and Mrs. Robson that a girl who was placed in service by them is now able to find a temporary place of refuge under similar circumstances. I may say of this case, that so completely does Miss Rye trust to the care and supervision of friends, that she was not able to give me the address of the girl or the particulars of the case when I applied to her. Her confidence, however, in Mr. and Mrs. Robson is fully justified by the great interest that they take in the children.

G. B., a boy of 13, from the Cheltenham Union, was placed out in Montreal " the day after landing." Nothing heard of him since 1872.

T. B. was placed out in 1870, and visited in that year. Further reports, if any, lost in the fire in 1872. Nothing heard of him since.

M. G., a girl of 17, sent out from the Southampton Union. Her conduct and intelligence while in the workhouse is reported " fair." She was seen or selected by Miss Macpherson before she was sent out. All the information that I could obtain with reference to this girl is, that she was placed in service with the Reverend C., of Amhurst Island. " Is " giving satisfaction, and writes she is happy. Heard unsatisfactory " accounts. Left her place. Heard nothing further from her. July " 1871, turned out bad. Mr. C. had taken every pains with her. Ran " away, and determined to go back to her former life." As to what " her former life " was, or under what circumstances she entered upon it, nothing seems to be known, no more than of her ultimate fate. There is no record of any visit having been paid to her.

L. O. was first placed with Mr. B., " who spoke against Miss Mac- " pherson, which was more than the girl could bear;" left. " Pleases " Dr. H. by her bright and cheerful way. Has done very badly for " some time. Spring, 1873, Mr. R. called, received unfavourable report. " December 1873, heard that she and her baby of four months old " were at Brighton." I could not obtain her present address.

There is no record of E. S. having been visited at all, but I have received the following account of her :—" Doing well in first place; is

" thankful she has met with such good friends. July 1871, still in her " first place doing well. Did well at Mr. C.'s, but they did not want " her. Went to P. November 1872. She is happy ; left February " 1873. Went back to Mr. C., left again April. Mrs. C. writes, 'Emma " untruthful and impertinent.' April 10th, arranged for her to be sent " to refuge in Montreal ; heard afterwards she went back to Mr. G. H. " July 1874, wrote for information for Mr. Doyle." (No information received.)

" Sent F. to Mr. A. S., who wanted a young man to assist in farm " work ; one of our boys had done well with him. Writes in January " 1872, he only staid one week with him, and left without cause ; " heard nothing since." No visit appears to have been paid to F. B.

The information given to me with reference to G. P. is, " Address and " reports lost in fire. Traced him to Mr. Smith, who writes, in answer " to letter of July 1872, ' G. P. only staid with us a short time, when " ' he ran away ; I know not where he is.' "

F. P. " Reports and address lost in fire. No further tidings from " this Home."

The only information I could obtain from the Home with reference to W. W. and H. W. is, " Sent post card. No answer."

There is no record of J. G. having been visited. " Has been in " several places ; very short-sighted and half-witted ; heard of him " wandering about ; called and stayed a night at Marchmont, January " 1873. Invited him to come again at any time ; said he was working " near Shannonville."

T. E. does not appear to have been visited. " $30 for one year to be " spent in clothes, and as much school as possible. Returned to March- " mont beginning of January ; needed treatment for cutaneous affections. " Taken by Mr. C. on month's trial, April 8th, 1873. Mr. C. writes, " ' Will keep T. until I commence ploughing, and see how he does ; " ' will give him what clothes is right for him ; let me know what you " ' think about it.' June 9th, received a letter from Mr. C., stating T. " ran away."

Although R. J., who is said to have had several good homes, was in a town close to the Home, I was unable to get his address.

The reports, &c. in the case of T. S. were lost in fire. Present address not known.

I have upon my notes the names of several employers, who complained that no one seemed to take any interest in the children after they were placed out ; that no one visited them or inquired about them. Even at Drummondville and St. Catherine's, each within an easy distance of " Our Western Home," I met with several cases that had not been visited since the children had been placed out, some of them so long as three or four years ago. There are amongst them cases that certainly ought to have received attention. The address of a boy named G. McM. was given to me as being with Mr. M., Port Hope. He was not there, nor was his present address known there. His sister, Annie McM., I found, as directed, in the service of Mrs. G. of St. Catherine's, a very kind. decent sort of woman. She told me that Annie had received " a pitiable letter " from her brother, complaining that he was placed with a farmer at the back of Port Hope, who " used him very badly." The sister was so distressed that Mrs. G. sent her son for the boy. He brought him to St. Catherine's, where Mrs. G. got him a situation with a Mr. R., a saw maker, who soon afterwards went to Rochester, in the States ; sent for the boy ; did not succeed in getting work in Rochester, and came back to St. Catherine's, where he kept the boy for two months, and during that time turned him twice out of doors. Upon the last occasion

he was found at the corner of the street sitting on his box crying. He was taken in by Mrs. G., who kept him for some weeks, and got his present situation, assistant to a small market gardener, where he is in a very humble home, but is kindly treated. His employer, however, talks of "going to the West." The boy, when I found him, confirmed the preceding statement, adding details of hardship that it is unnecessary to repeat. He had been in the Chichester Workhouse for three years, where his conduct was reported to be "good." The information furnished to the Guardians about him from Canada is :—"Good accounts are received "from this child. He is at St. Catherine's, in a gentleman's family." The boy's own description of the place in "a gentleman's family" was, that his master was a "sort of middlin farmer ; that he was put to wash "the dishes, scrub floors, drive cattle, and do little chores about the "house." ("Chores" is a term peculiar to domestic service in Canada, and embraces all the little odds and ends of household work that children can do, and are employed to do at a very early age.) The good woman who so kindly interested herself for the boy, observed to me—"You are the first person, sir, who has ever been to visit these children "or to make any inquiry about them." I should observe, on the other hand, that Miss Rye took me to visit several cases, about 40, many of them near to, but some at a little distance from Niagara. I may say generally of them all, that the children were in a satisfactory state, some of them remarkably so, and that Miss Rye appeared to have intimate knowledge of the circumstances of nearly all of these cases. But there are many others of which nothing authentic is known, as they have not been visited ; others still, as the following, of which all trace seems to have been lost.

E. B. is lost sight of.

C. C. left her second place a year ago. Present address not known.

J. C. believed to have left last reported situation. The present address of M. H. is not known at "Our Western Home."

Not sure whether C. L. is in last reported situation.

A. L's. present address not known.

A. C., after being in seven different places, and in the House of Refuge at Rock Port in the United States, has been lost sight of.

M. C. has changed places several times, but her present address is not known.

It is "a little doubtful whether E. C. is still in her last reported situation."

E. D. has been removed, but her present address is not known.

J. F., who has had seven or eight different places, is said to be in the neighbourhood of "Our Western Home," and "believed" to be doing respectably, but address not known.

M. A. G. has left her place, and her present address is not known.

Not known whether H. H. is still in her last reported situation, which was her sixth place.

Not sure that H. J. is in her fourth place ; the last address that was given to me.

M. McN., instead of going to her fourth place, went on the town, and is now leading an immoral life.

Miss Rye gave me the address of E. M. as living with Mr. J. C., and added that she was "doubtful whether still there." Upon visiting some of the children, I found that E. M. had left Mr. J. C. $2\frac{1}{2}$ years ago, and had been since then with Mrs. B., who had never seen Miss Rye or had any arrangement about the child.

Miss Rye could not give me the address of A. P., but stated that after being with Dr. W. she went over to the States to Mr. B. Lost her

character there, and Miss Rye has a strong suspicion that she has returned to England.

A. P. having left Mr. G. P. her present address is not known.

S. S.'s present address is not known.

E. W.; address not known.

E. W.'s address is at Dr. C., but Miss Rye is doubtful whether she is still there.

Doubtful whether H. W. is still with Mr. E. P.

E. B. is now in her third place, quite close to "Our Western Home," but Miss Rye having mislaid the papers could not give me her address.

A. C.'s address is given as living with Mr. J. C., but Miss Rye thinks she is not there now.

[The names in full, the dates of emigration, the names of the Unions from which sent, and the characters given of them by the officers of the several Workhouses, can of course be furnished. But for the purpose of this Report the initials may be sufficient, for the present at least.]

I have probably said enough to satisfy you that the want of proper supervision is a most serious defect of this system of emigration. Miss Rye indeed as I have already said does not pretend to have any plan of visiting at all, and the very imperfect plan that Miss Macpherson has adopted, even if it were much better organised than it is, would be open to the strong objection stated by Miss Rye in her letter to the Board, dated June 10th, 1872: "The extreme absurdity of anyone reporting "upon and overlooking their own work is so apparent that the proposal "to do so is not worthy a second consideration." Nor will any system of reporting and overlooking be satisfactory that is not entrusted to persons who are responsible to authority either in Canada or in England, and at the same time wholly independent of those who may be engaged in organising or administering this system of juvenile emigration. Miss Macpherson and Miss Rye, under whose control that system is now conducted, can really give very little personal attention to the details of it, and are compelled to trust to the voluntary co-operation of others for the work of which they assume the responsibility. Miss Macpherson's labours in England are of so engrossing a character that one only wonders how she is able to give any time to Canada at all. After three months of the most harassing and anxious work in London she crosses the Atlantic to pass her winter in Canada, visiting or endeavouring to visit the hundreds whom she has placed out there; then returns to England to organise her summer parties of young emigrants. Here is Miss Rye's account of one year's work gone through by her:—"I left "the Home in Niagara in February 1873, and travelled night and day "to Portland, to take ship for England. When I reached Portland the "ship advertised was not in port; this necessitated my going on to New "York. I then crossed the Atlantic, and remaining in England until "the 26th of June, recrossed the ocean with 65 children, having pre-"viously dispatched 71 souls on the 1st May. In September I was "again in Quebec, nearly 600 miles from the Home, to meet the third "and last party of children for the season, numbering 58. With these "children I returned the 600 miles to the Home, and after placing out "the whole of the children, at the end of October I went into the "West, visiting the children in the neighbourhood of Mount Forest, "where I have about 30 little ones under the care of Sydney Smith, "J.P., who for a very long time has most kindly assisted me in the "work. There the children came to tea with me, and we had a very "happy little gathering. After a week spent in Mount Forest I went "on to Arthur; saw the six or seven children I have there; went on

" from there to Fergus, from there to Guelph, from Guelph to London,
" in all of which places I have children, and visited nearly all of them.
" From London I went to Port Stanley, Sherwood, Petrolia, and lastly
" to Chatham, returning by Woodstock; on the same errand to all
" places. On my return to Niagara, I made up my book from memo-
" randa gathered on the journey; made copies of the placing out of the
" children for the year; made another journey East, making in all
" rather more than 6,000 miles of railway work within the year in
" Canada alone; when I crossed the Atlantic for the third time, and
" came back to England to dive into your slums, and the sins and
" sorrows of your great city."

It is amazing how these ladies can undergo such extraordinary toil; still more amazing how they can express so much confidence in the immediate and ultimate results of a system of which they can personally know so little.

Of these results it is as yet impossible to speak with any degree of confidence. Nine-tenths of the children who have been brought out are still in service, and it remains to be seen how they will turn out. The prospects of a considerable number of them are no doubt promising. Of the prospects of a still greater number no one can honestly say anything one way or other, so little is known about them. Even of those who have been visited, the mere fact of their having been seen should go for very little. The "visits," I must be allowed to say, do not constitute the sort of inspection that is of much use, having a good deal more the character of visits from friends and guests of the employers than of impartial inquiry into the condition and treatment of the children. I could not, for example, ascertain that in a single instance of the cases that I visited had inquiry been made as to the sleeping accommodation of the children. Yet I found several cases in which it seemed to me to be extremely objectionable; a girl sleeping in a very small room with six children; a boy in a small dark recess between two rooms without any means of ventilation; a girl of 11 to 12 in a room away from that of her mistress, without fastening, opening to a lobby from which were the rooms of two men, one hired harvest man of whom the people know nothing except that he was "a good farming hand;" a boy sleeping in a large box rather than a bed, in a room with two hired men, one of whom was lying ill of English cholera that was very prevalent at the time, and of which I was informed three children had recently died in houses close by. Cases were mentioned to me of young girls being left in the winter without suitable under-clothing. I was urged by a lady, a resident in a Canadian village, to call attention to this as being more important to the health of children than strangers might suppose. So with reference to the attendance of children at school, and on Sundays at some place of worship. It is no doubt made a condition, when placing the children out, that they shall have "winter schooling" or "summer schooling." But I met very many cases in which under one pretext or other employers failed to observe this condition. Although attendance at school is by law compulsory, yet I found at many schools that I visited for the purpose of inquiry that as there was no machinery for enforcing attendance it was very irregular. In the country districts, and in a few of the town districts, attendance at Sunday school is the substitute for other schooling, as well as for attendance at any place of religious worship. I should observe, too, that whereas at least ninety per cent. of the pauper children who are sent as emigrants to Canada have been brought up in England as members of the Church of England, full ninety per cent. of those placed out in service in the country attend the places of worship,

when they attend at all, of some denomination of Protestant Dissenters, Presbyterians, Methodists, Baptists, or of Bible Christians.

Although I did not hear of any case of gross cruelty, I did hear of many cases of ill-treatment and hardship. A girl complained to me that "for temper" she had been sent to bed on Saturday afternoon and kept there without food till Sunday evening: a mistress told me that she had kept a girl on bread and water for three days for refusing to admit that she had stolen five cents: a master I ascertained had horse-whipped a girl of 13: I found the marks of a flogging on a boy's shoulders, the flogging having been inflicted a fortnight before: in reply to my question, "Why did you leave your former place?" the answer would very often be to the effect, if not in so many words, "I couldn't "manage to please them; they were always scolding me; they used "to beat me; I was very unhappy." The number of such cases that are unnoticed because not visited are, I fear, very considerable. It is very often said, and I have been assured with great confidence, that there is ample security against the ill-treatment of children in the watchfulness and sympathy of neighbours. Against gross, notorious ill-treatment that may be true. But I certainly was not prepared to find, in the face of such assurances, so many cases as I did in which people directed my attention to facts which they thought I "ought to be made aware of," but always with the condition that I was "not to mention their names," "I wasn't to bring them into it," they "didn't want to be making ill feeling between neighbours," and so forth. Even in the case of an accident which they thought Miss Rye ought to know of, three different persons in telling me of it, requested me not to refer to them. It was the case of a very nice little girl who had had the sight of one eye destroyed by the careless use of fire-arms by the children of the family. The neighbours were strongly of opinion that some compensation ought to be made to the child by her employers, but not one of them, so far as I could learn, had moral courage enough to inform Miss Rye or the other "legally constituted guardians," so that inquiry might be made as to whether it was a case for compensation or not. So my attention was often directed to cases simply by the remark, "I guess you ought to visit" so-and-so, or "that Rye child at———— has a hard place of it." Very often I failed to find the slightest ground for such insinuations, but occasionally they were fully justified.

There is one result, to which I have already referred, limited, I regret to say, as to numbers, of this system of emigration that may be spoken of with unqualified approval, that is, the adoption into families of very young children. The mere fact that people of good character apply for a very young child to adopt with a view to bringing up gratuitously as their own is in itself some guarantee that the child will be well done by. And well done by these children certainly are. I visited several, from children adopted into the families of gentlefolks to those adopted by small hard-working farmers, and I may say that without exception their condition was in all respects most satisfactory. From the very circumstances that lead to their adoption, to fill an empty place in the family, they are objects, as might be expected, of unusual affection. I could give striking illustrations of this that came under my own observation. It is enough, however, to say that that class of Canadian homes is the most perfect realisation of the principle of boarding-out that can be well conceived, and so far as these children are concerned Miss Rye and Miss Macpherson deserve the highest credit for originating such a method of placing out very young children, as do the ladies who represent them

in Canada for the care with which foster-parents appear to have been generally selected. The only regret to be expressed with reference to this part of the system is, as I have before remarked, that its application is and must continue to be very restricted. Miss Rye, in her letter to the Board, calculates that not more than ten per cent. of the children can be so disposed of, and from what I observed I am inclined to agree with her. As to the other class of "adoption," as it is only service, there can be no advantage in disguising it, or in calling it by another name. Further, it appears to be very questionable how far it is right to confer upon foster-parents so much control as Miss Rye's indenture undoubtedly confers upon them. As I read it, there is nothing in this indenture to prevent the foster-parents from apprenticing the child, or from sending it into service, even into the States, if so disposed.

Of more importance is the disposal of children ranging from 10 or 11 to 15 years of age, and who constitute the great bulk of these young emigrants. Whether under any arrangements Boards of Guardians ought to send such children out of England to service in another country they will decide for themselves, from their knowledge of the circumstances of their several districts. For reasons that I state elsewhere I do not think that girls of that age ought to be sent at all. Should Boards of Guardians desire to try emigration as a means of disposing of an assumed superabundance of children it would be difficult to send boys to a land of greater promise than Canada. The resources of the country for absorbing agricultural labour appear to be boundless. Although comparatively few may succeed in realising the hopes with which so many delude themselves in leaving "the old country," yet no labouring man who is industrious, frugal, sober, and willing to turn his hand to anything can fail to get continuous work at good wages. But measured even by the standard of comfort of an average English agricultural labourer, the conditions of hired service on a Canadian farm are, for man or boy, hard and rough. Boys, however, who are sent into this sort of service without some previous preparation for it are at a great disadvantage, and I believe the failure of many of them results from their being discouraged in the first few months of their service when the whole routine and all the details of Canadian labour are strange to them. If they could have had a few years preliminary training in some well-organised industrial establishment in Canada, there would be no limit, within reason, to their finding suitable employment in farm service. If they were brought into Canada while yet young, and were trained amongst Canadians on Canadian soil, in a Canadian climate, and gradually accustomed to Canadian ways, they would, I believe, constitute one of the most valuable additions that could be made, by means of emigration, to the future available labour of the Dominion. As it is, the sending out of boys of ages varying from 11 or 12 to 14 to be at once taken into service is, I think, a mistake. It is amongst that class of boys that the largest number of failures will be found, as it is amongst the very young children that the most promising cases will be found. That this is the case with girls there can be no doubt.

If Boards of Guardians in England desire to send children to Canada, and the provincial governments desire to receive them, it would be easy to settle a plan of emigration that might meet the views of both. That, however, is a point that it would be premature to discuss until a sufficient number of Boards of Guardians in England concurred in wishing to adopt some systematic plan of emigration upon such a scale as would justify the organisation in Canada of an efficient machinery for the reception, training, placing out, and supervision of the young emigrants. For the

most important of these arrangements, the visiting and supervision of the children, the system of local government in Canada seems to afford peculiar facilities. The Provinces being divided into counties, and sub-divided into municipalities and townships, and still further sub-divided into school sections, the county council, constituted of the reeves of the several townships, would seem to be a very appropriate body to take the general charge of placing these children in service, and watching over them, confiding the actual discharge of these duties, so far as they were voluntary, to the township authority, or visiting committees appointed by them, and entrusting the official visiting to the school inspector of the district. In every county there is at least one, in some two school inspectors, and if they were reasonably compensated for the additional trouble, there would appear to be no reason why the periodical visiting of the children on behalf of the provincial government should not form part of their ordinary duty. These, however, are details into which it would be premature to enter at present.* Whatever may be determined as to the future, that which does seem to require immediate attention is the organisation of some means of visiting the children who are now in the Dominion. The actual position and treatment of every child should be inquired into. Before I entered upon this inquiry, I sent to each Home this form, with a request that the information indicated should be given :—

Name of Child.	Age.	Union from which received.	Date received into the Home.	Collective Number of Days the Child has been in the Home since its arrival from England.	Dates of Visits paid to each Child. Copy of any Report to be annexed.	The Names and Address of all the Persons with whom the Child has been placed, and where Changes have been made, the Date and Cause of such Changes.

Miss Barber was good enough to enable me to fill the form so far as her books enabled me to do so. To Miss Bilbrough of Belleville and Miss Reavell of Galt I am indebted for the very great trouble which they took to complete this return for me. From Miss Rye's books I obtained little more than the names and address when it was known of the children. The information thus obtained shows very clearly the necessity of adopting the course that I suggest. Several of the children appear to be altogether lost sight of. Some of them have changed places without the knowledge of the superintendent of the Home. Equally without their knowledge some of them have passed into the States. Very many of them whose addresses are known have been left

* *P.S.*—Since the preceding Report was written I have received a copy of an "Order in Council" upon the subject of Emigration, which was approved of by His Excellency the Lieutenant-Governor on the 13th of November. The Order embodies proposals from the representatives of the provinces of Ontario, Quebec, New Brunswick, and Nova Scotia to the Government of the Dominion for promoting emigration to Canada, by securing for that purpose united and harmonious action in Europe. The effect of this Order, which will in the first instance have force for five years, will be to place the control and direction of all matters connected with promoting emigration to Canada under the Minister of Agriculture at Ottawa. Independent agencies for the several provinces will be discontinued, the provincial Governments as well as the Government of the Dominion being represented by one agent, the Agent General in the Canadian offices in London.

It appears to me that through this organisation arrangements might easily be made in accordance with the suggestions that I have already offered, and considerable facilities afforded for the emigration, distribution, and subsequent supervison of children who might be sent to Canada by Boards of Guardians or other responsible bodies in England.—A. D.

for more than one, two, or even three years unvisited. It appears to me to be the duty of those who have removed these children from England to institute a strict inquiry into their present position, so as to ascertain all the facts that can be known about them. To do this it would only be necessary for Miss Macpherson to make some addition to her present staff. If the information is to be obtained not by correspondence but by visits, it would be necessary for Miss Rye to appoint visitors for the purpose. But in whatever way the information is to be obtained, I think it ought to be furnished to the Boards of Guardians who have allowed these children to be sent to Canada in the belief that they would be looked after until they were of an age to look after themselves.

Connected with this system of emigration charges have been publicly made and discussed in the Canadian press and elsewhere, grounded upon the assumption that Miss Rye and Miss Macpherson have a pecuniary interest in it. Both of these ladies were desirous that I should investigate this matter, upon which they are prepared to give the fullest information. Such an investigation, however, to be of the slightest value, would involve a much more minute examination of accounts than I was prepared to make, or indeed had the means of making. The emigration expenses of pauper children, and of children who are not paupers, are so mixed up that it would be very difficult to separate them. A satisfactory result could only be arrived at by a strict audit, in which vouchers for each item of expenditure should be produced. That I am prepared, with your permission, to undertake if these ladies desire it. It is alleged that at present the cost of conveying a pauper child from Liverpool to its destination in Ontario cannot exceed one third of the sum paid on that account by the Guardians. This no doubt would be the case if Miss Macpherson and Miss Rye avail themselves of the " assisted passage " given by the Government of the Dominion, as well as of the drawback of six dollars for each emigrant given by the Ontario Government.

With reference to the two items of expenditure,—cost of passage and cost of maintenance,—I applied for information to Miss Rye and Miss Macpherson, and also to the several Homes. To my application with reference to the assistance afforded by the Governments of the Dominion and the Province of Ontario I have received no reply from either Miss Rye or Miss Macpherson. From the Galt Home only was I able to ascertain the collective number of days for which the children are chargeable. In the absence of such information I can refer only to what I ascertained at Ottawa and Toronto, and to the balance sheets published by Miss Macpherson. I was informed that previous to the present season Miss Rye and Miss Macpherson obtained from the Department of Agriculture at Ottawa warrants for assisted passages at 4*l.* 5*s.* and 4*l.* 15*s.* sterling for adults, and half of these sums for children under 8 years. But in the spring of this year, in consequence of certain representations made as to the care of children, the warrant in the case of Miss Macpherson's emigrants was reduced to 3*l.* 5*s.* sterling. Still later in the season, in consequence of further representations as to the particular care and education of children, the warrant was reduced to 2*l.* 5*s.* sterling in the case of children sent out under the auspices of the Archbishop of Westminster, and for those sent by the Children's Home, Bonner Road, Victoria Park, London. As it was understood that this principle might be invoked for other children similarly sent out, I presume Miss Macpherson and Miss Rye would receive the benefit of it. But even if the cost of the passage were not reduced to 2*l.* 5*s.*, but stood at 3*l.* 5*s.* for children on whose behalf a bonus of 1*l.* 4*s.* per head

was paid by the Government of Ontario, the actual cost of taking a child from Liverpool to its destination in Canada would be thus reduced to *2l. 1s.* The children are taken from Quebec to the several Homes by the railways free of cost. The sum expended by Miss Macpherson for each Home is only *200l.* per annum. The cost of Miss Rye's Home can very little, if at all, exceed that sum. If we allow *1l.* per head as the extra cost for each child, and it would, I believe, be a liberal allowance, there would be a clear gain of *5l.* per head upon every pauper child taken by these ladies as emigrants to Canada. That calculation applies to the last and present year. If the assisted passage be reduced to 2*l.* 5*s.*, the gain upon each child would be so much more. I would repeat that this calculation is made in the absence of detailed information which I had hoped to receive but which I have not received from Miss Rye and Miss Macpherson.

Again, it would be impossible to arrive at the cost, even approximately, of maintaining pauper children at the Homes without knowing the collective number of days that each child was maintained in them.

Connected with the receipts for emigration purposes, there is an item in Miss Macpherson's accounts that calls for notice, especially as from the form in which it is entered it is certainly open to misconception; I mean the item "repayment of passage money." Miss Macpherson has been in the habit of inviting children to repay the cost of their emigration in order to assist the emigration of other children. This has always been carefully explained to the children, but even with such explanation I think it is a mistake to allow a child to contribute 6*l.* or 7*l.* nominally as repayment of passage money. Upon several occasions employers have spoken of this as a hardship, and have asked me whether it was true, as the children had told them, that the Guardians had paid their passage out. I am sure that Miss Macpherson's motive is not to get so many dollars for her emigration expenses, but to enlist the sympathy of the children in her undertaking. The contribution would certainly have more value if made without suggestion, and after the children were able to judge from their own experience how far the undertaking was one that deserved their support. In the case of Union children, at all events, the practice should be discontinued.

Before I left Canada the Honourable Alex. Mackenzie, the Prime Minister of the Dominion, favoured me with a long interview at which Mr. Edward Jenkins, M.P., the agent in England of that Government, was present; the result of which will, I believe, be that Mr. Jenkins will be authorised to discuss the subject of the emigration of pauper children with the Local Government Board, with a view, if it should be thought desirable to continue it, to place the system upon a more satisfactory footing. It may therefore be convenient, in concluding this Report, that I should recur to one or two points to which I have already called your attention.

Guardians will decide for themselves whether or not it be desirable to send from their several Unions children who are supposed to have been already trained for service. Unless so trained they will be less fit for service in Canada than they would be in England, and to send them as emigrants can be regarded not as a way of improving their position, but simply of getting rid of them at a cheap rate. But if they be reasonably well prepared for service, it is difficult to understand why they should be sent out of a country in which one hears from every household complaints of the dearth of domestic servants, and of the want of young hands in various branches of industry.

If Guardians, however, are satisfied that they have a superabundance of pauper children under their care, and desire to have recourse to

systematic emigration as a remedy, the children should be sent out at a much earlier age than at present. .

With reference to girls, I am decidedly of opinion that they ought not to be sent out at a later age than from *seven* to *eight;* all the better if still younger. Girls who are sent out at ages from *nine* to *fifteen* are at once placed in service. By whatever name that service may be called, though disguised as "adoption" it is in fact domestic service, quite as hard as, and in some respects more uninviting to the children, than the service in which at the same age they might be placed out in England. Their habits have been to some extent already formed, and they have ties and attachments, the recollection of which, when the novelty of their new position is worn off, makes them discontented with it, and leads to constant complaints and changes of situation. I was often painfully struck in speaking to children of that age with the sense of loneliness manifested by them. It was a long time, employers have frequently told me, before that class of children could get over the feeling of home sickness. I have already indicated the very serious risks to which children are exposed who are left to pass out of that sort of friendless and isolated service into early independence. With children who are sent out very young, and who are adopted into families, the case is altogether different. They are completely adopted by the families into which they are received, not by needy cottagers for the sake of a few shillings a week, but into a class of homes that have no counterpart in England, partly in view, as Miss Rye puts it, of their future usefulness, and partly to fill a void in the household. All the influences by which these children are surrounded are healthy, and one may reasonably look to their being ultimately absorbed into the best part of the best population of the American Continent, the Canadian yeomen. So long as homes can be found for these children, such as those in which I saw so many of them, and so long as they are watched over by women like Miss Bilbrough and Mrs. Robson, there can be no question as to the advantage of sending them to Canada, if they must be sent out of England. But the utmost care should be taken not to send them out merely upon speculation or in excess of the means, *ascertained beforehand*, of disposing of them by adoption.

If, contrary to the opinion that I have ventured to express, Boards of Guardians should still desire to send out children of more mature age to be at once placed out in service, I can only repeat what I have already said as to the necessity of correcting the defects that I have pointed out in every stage of the emigration, from the selection of the children to their being finally emancipated and left to act for themselves.

I would repeat, too, that if the emigration of pauper children to Canada is to continue, it should be wholly disconnected with the emigration of arab children. Apart from the pernicious influence of such association there are, I am sure, few Boards of Guardians in England who would not feel indignant if fully aware of the light in which the children sent out by them are too often presented to the people of Canada. In order, I suppose, to enlist public sympathy in favour of the destitute children who are sent out, they are represented without distinction as the offspring of thieves and vagabonds just swept from the slums of our great cities. Occasionally indeed the pauper children are referred to as a distinct class, but only as being "the refuse of our workhouses." Irrespective of the great injustice of so characterising these children, I am quite sure, as I have already stated, that it tends materially to prejudice their position in service. Many a child in Canada might repeat what is said by that unhappy girl whose letter is before you. "I was not "going to be told that I was glad to come to Canada, for I was half

" starved, and was picked off the streets in London, and my parents " were drunkards." This is but repeating the language of those who take these children to Canada; language that, applied to workhouse children, is as mischievous as it is unfounded. Nor is the mode in which these children are sometimes distributed and the conditions upon which they are placed in service less calculated to prejudice them in the eyes of the C nadian people. I was informed by an official at New London that only last summer Miss Rye took up there some 50 children, who, having been lodged and fed by the charity of the town, were next morning marched to the Town Hall, where applicants for them inspected them and selected them, each according to his or her fancy. My informant was naturally astonished to hear from me, that for the emigration of the pauper children the Guardians had paid eight guineas per head, at least double the sum that it could have cost to get them to their destination. The stipulation for the service of these children is, that for the first year the employer is to pay in clothing 30 dollars. But each child has an outfit sufficient for the first year, so that the employer gets the child's service merely for its maintenance. Employers may naturally feel that none but children the most destitute would in such a country as Canada be bound to serve upon such terms. No class of Canadians would consent to accept such terms of service for their own children.

It is to be regretted that some of the Union authorities do not manage to keep up regular communication with their own emigrant children. The teachers would do so I am sure if they could but know what store a child so far away sets by a letter or a word of news " from home." Even the little that I could tell made me a welcome visitor to a few of them of whose schools and teachers I happened to know something. One very bright intelligent child from a London District school, however, did not conceal her disappointment when her mistress called her in to see me. Having heard that an Inspector from England had come out to see her and the other children she had been counting, she told me, upon seeing, not a stranger, but her old friend Mr. Tuffnel.

I have, &c.

ANDREW DOYLE,

Local Government Board Inspector.

The Right Hon.
George Sclater-Booth, M.P.,
President of the Local Government Board.

APPENDIX.

A.

Copy of Circular distributed in Canada by Miss Rye.

" Our Western Home, Niagara, Ont., 187 .

" The children vary in age from 9 to 12 years, are all Pro- " testants, and nearly all absolute orphans, are bound (when not " adopted) till they are 18 years old, on the following terms, viz., " up to 15 years old they are to be fed, clothed, and sent to Sun- " day school. From 15 to 17 they are not clothed, but paid $3 a " month wages, and $4 a month from 17 to 18. If, through any un- " foreseen circumstances, it is necessary for a child to be returned to

" the Home, due notice of the same must be given, in writing, a full " fortnight before the child is removed; and if the child has been " away from the Home six months, her clothes must be returned new " and whole, and in same number as they left the Home. In no case " may a child be passed on to another family without first consulting " Miss Rye, and in case of the death of persons (husband or wife) " taking children, it is particularly requested that an immediate notice " of the fact be sent to the Home.

" Maria S. Rye, Hon. Secretary."

B.

Form of Queries to be answered by Applicants to Miss Rye on behalf of Children to be sent out to Canada.

" Female Emigration.—Orphans.—Canada.

" State child's full name. State her age. Has she been baptized? " Into what communion? Where is she living? How long has she " lived there? Are her parents dead? Has she any relations living? " Where do they live? Are you (the applicant for a passage to Canada " for this child) in any way related to her? Give your full name and " address.

" Maria S. Rye,

" Avenue House, High Street, Hon. Secretary.
" Peckham, London, S.E.

" Memorandum.—Children who have been deserted three years to " be considered orphans. If the child in whom you are interested " is taken to Canada she will go to 'Our Western Home,' Niagara, " Canada, West, and will be taken care of until she can be placed out " into some respectable farmer's or tradesman's family, and be looked " after until she is eighteen years of age."

C.

Form of Consent required by Miss Rye of a Parent before taking out a Child.

" I , aged years, now living at ,
" do declare that I am left a widow with children, and that I
" am not able to provide for the said children, and I now, by the advice
" of , and with her (or his) full knowledge, give up
" my child to Maria S. Rye, of Avenue House, High
" Street, Peckham, to be brought up by that lady in the knowledge
" and fear of God, her Saviour, and of her duty to her neighbour and
" to herself; and I give my full permission for , my child,
" to be taken to Canada, America.

_____ *Signed.*

_____ *Witnessed.*"

D.

Form of Agreement to be entered into by Employers of Children placed out by Miss Macpherson.

" Knowlton Home, Knowlton, Que. 18 .

" M of P.O. Takes At $ per month
" or $ per annum for the year. To attend church and
" Sunday school regularly. Also day school months in the

" year. Should it be necessary in any case for the child to be returned " to the Home, notice of this must be sent a fortnight beforehand. The " clothes must also be sent back in good condition, and the same " number. Employers are requested to see that the children write occa- " sionally to their friends, also that they communicate with us in the " event of sickness, and in no case to allow the child to go into another " family without our permission. We reserve to ourselves the right of " removing any child if we see fit, or on these conditions not being " fulfilled. Signed

" Signed For ANNIE MACPHERSON."

E.

Form to be filled up by Persons in Canada applying for Children at " Our Western Home."

" Our Western Home, Niagara, Ontario.

" What is your full name? Give me your full address. Are you " married? Is your wife alive? Have you any children, and how many? " What is your trade or profession? How long have you lived in your " present neighbourhood? Do you belong to the Episcopal Church? If " not, state with what body of Christians you do worship? Give me " the name and address of the minister of the church where you " worship. Give me the name and address of the reeve or mayor of the " town in which you live. If I commit an orphan to your care, state " what position she is to hold in your family. Also state the age of " the child you wish for.

" MARIA S. RYE,

" Hon. Sec. Our Western Home, Niagara, Ontario,

" to whom this form is to be returned when filled up."

F.

Form of Circular addressed by Miss Rye to the Reeve or Clergyman for information with regard to an Applicant for a Child.

" Our Western Home, Niagara, 187 .

" Sir,—Mr. and Mrs. having applied to me for one of the " orphan girls under my care, and having given me your name as one " of their references, please tell me, in confidence, whether you consider " Mr. and Mrs. and their family fit persons to have the " charge of a little girl; and also how long you have known them.

" An early reply will oblige

" Yours very faithfully,

" MARIA S. RYE."

G.

Form of Miss Rye's Indenture of Adoption.

" This indenture, made the day of in the year of our Lord " one thousand eight hundred and seventy- , between Maria Susan " Rye, Robert Notman Ball, J.P., of the county of Lincoln, and Henry " Paffard, Esquire, Mayor of the town of Niagara, of the first part, and " of the second, have sent out and delivered to the said " party of the second part, for the purpose of being adopted into his " family, a minor child in the custody and under the " protection of the said Maria Susan Rye, Robert Notman Ball, and " Henry Paffard, and now at the age of , and the said parties of

" the first do hereby transfer to the party of the second part all their " right to and power over the said child, subject, however, to the " proviso herein-after contained ; and the said party of the second part, " in consideration of the delivery to him of the said child, and of the " labour and services, love and affection, to be received by him from " the said child, doth hereby adopt the said child, and take her for his " own child, and doth also hereby covenant, promise, and agree with " and to the said parties of the first part, that the said party of the " second part will protect, maintain, educate, and in all respects regard " and treat the said child as he does, would, or should do his own lawful " child ; that he will bring up the said child and cause it to be in- " structed in the principles of the Protestant religion, and the said " party of the second part covenants with the said parties of the first " part, that in case of any breach of the covenant herein contained to " be by him performed he will forthwith, whenever requested so to " do by the parties of the first part, deliver up the said child to the " custody of the said parties of the first part. And further, it is hereby " expressly understood and agreed, that in case, during the minority " of the said child, the party of the second part shall die, or become " incapable of carrying out, or neglect to carry out, duly and regularly, " all and singular the various obligations inposed on him by this in- " denture, the parties of the first part reserve to themselves the right of " resuming their control over the said child, or in taking such measures " of securing her rights as they may be advised. In witness whereof " the parties hereto have hereunto set their hands and seals the day " and year first above written. Signed, sealed, and delivered in pre- " sence of ."

H.

Form of Miss Rye's Indenture of Service.

" Indenture. This indenture, made and entered into the " day of A.D. 187 , between Maria Susan Rye, Henry " Paffard, Esq., J.P., Mayor, Robert Notman Ball, Esq., J.P., all of " Niagara, of the first part, , a minor orphan " of the age of years, of the second part, now under the charge " and control of the parties of the first part, and " of the third part. Whereas the said Maria Susan Rye, an English " lady, now residing in the Dominion of Canada, has under her charge " a number of orphan children, brought from England by her, for the " purpose of finding for them homes, and which said orphans she de- " sires, conjointly with Henry Paffard and Robert Notman Ball, Esqs., " whom she has appointed guardians of the children aforesaid with " herself, to bind out and apprentice, until they shall attain the age of " 18 years, and of whom , the party hereto of the " second part, is one. Now this indenture witnesseth that the said " parties of the first part, in consideration of the convenants and agree- " ments herein-after contained on the part of the parties of the third " part, and by and with the full consent of the party hereto of the " second part, doth by these presents put and bind out as an appren- " tice the said minor orphan, , the party hereto of the " second part, to live with and serve him, the said party hereto of the " third part, for and during and unto the full end and term of " years, beginning on the day of the date hereof, and continuing hence- " forth during the said period of years, fully to be completed " and ended on the day of A.D. 18 , during all

" which period the party hereto of the second part shall well, truly, and " faithfully serve the said party hereto of the third part, as help or " servant, and shall obey all his lawful and reasonable commands, and " that she will do no damage to her said master in his goods, estate, or " otherwise, nor willingly suffer any to be done by others, and that she " will not during the said period absent herself at any time from the " service of her said master without his consent first obtained ; but in " all things, as a good and faithful servant and apprentice, shall well " demean and conduct herself to her said master. And the party " hereto of the third part, in consideration of these premises, promises " for himself, his heirs, executors, and administrators, and does hereby " covenant and agree with the parties hereto of the first and second " parts, and with each of them, to teach and instruct the said party " hereto of the second part, the said , in the " knowledge of books, so far as to give her a plain English education, or " to cause the same to be done, and to teach and instruct, or cause to " be taught and instructed, the said in " the arts and duties of housewifery, and the use of the needle, " and such other duties as may be necessary to qualify her to obtain " a livelihood for herself when the period of her apprenticeship " shall have ended, and to pay due attention to her moral and " spiritual culture, and afford her the opportunity and use his authority " to induce her to attend some Sunday-school and place of public wor- " ship where the doctrines of Christianity, as held by the Protestant " denominations, are taught ; and that he will furnish and provide " suitable and proper meat, food, and clothing, both woollen and linen ; " and in case of sickness, with medical attendance and medicines, and " all other necessaries, except that when the said shall " have attained the age of fifteen years, in lieu of clothing he shall pay " her wages at the rate of dollars per calendar month until she " shall have attained the age of seventeen years ; and from that time " until the expiration of the period of service herein-before mentioned " he shall pay her wages at the rate of dollars per calendar month. " In witness whereof the parties hereto have hereunto set their hands " and seals the day and year first above written. Witness."

I.

Form of Miss Rye's Indenture of Apprenticeship.

" This indenture, made the day of in " the year of our Lord one thousand eight hundred and seventy- , " between Henry Paffard, Mayor, J.P., Robert Notman Ball, J.P., and " Maria Susan Rye, all of Niagara, Ontario, guardians of the minor " herein-after named, of the one part, and of the " other, witnesseth that the said guardians (by and with the consent " of the minor herein-after named, signified by his signing this inden- " ture) do hereby place and bind , minor child, " aged years and months, as a , to and with " the said party of the second part, from the day of the date hereof " until the said minor shall have attained the age of eighteen years, " during all which time the said child shall faithfully serve the said " party of the second part, and in all things demean himself as a good " and faithful apprentice ought to do. And the said party of the second " part, in consideration of the labour and services to be received from " the said child, doth hereby promise and undertake to feed, board, and " clothe the said child in a fit and proper manner, according to the

" respective station of the parties; to provide medical attendance and " care in case of sickness; to bring up the child in reading, and " writing, and cyphering, as far as the Rule of Three, giving to him " schooling (in the winter) up to thirteen years; to teach and instruct, " or otherwise cause to be taught and instructed, the said child in the " art or trade of after the best manner that he can; to " pay to the said child for each year from thirteen to eighteen years, in " cash, at the rate of thirty dollars, forty dollars, fifty dollars, sixty " dollars, and eighty dollars per year, for the respective years in lieu of " clothing. And lastly, at the expiration of the period of apprenticeship " or service, to provide the said child with a good and new suit of " clothes suitable to his condition. Provided always, that, in the event " of the death of the party of the second part, or of treatment incon- " sistent with the obligations of this indenture, the party of the first " part reserve to themselves the right of resuming their control over " the said minor, or taking such other measures for securing his rights " as they may be advised. *And in case of the said child being under* " *the age of fourteen at the date hereof,* the said parties of the second " part covenant with the said parties of the first part, that in consi- " deration of the premises they will, if required by the said guardians " or said minor, execute a new indenture of apprenticeship with the " said guardians or minor, and of the same tenor as the present inden- " ture, upon said minor attaining the age of fourteen. In witness " whereof the said parties to these presents have respectively set their " hands and seals the day and year first above written. Signed, " sealed, and delivered in the presence of ."

PAUPER CHILDREN (CANADA).

COPY of a REPORT to the Right Honourable the President of the Local Government Board, by *Andrew Doyle*, Esquire, Local Government Inspector, as to the EMIGRATION of PAUPER CHILDREN to *Canada*.

(*Mr. Sclater-Booth.*)

Ordered, by The House of Commons, *to be Printed*,
8 *February* 1875.

Under 3 *oz.*

FURTHER CORRESPONDENCE

RELATIVE TO THE

LAND TENURE QUESTION

IN

PRINCE EDWARD ISLAND.

(*In continuation of Command Paper* [C. 1351], *August* 1875.)

Presented to both Houses of Parliament by Command of Her Majesty,
April 1876.

LONDON:
PRINTED BY GEORGE EDWARD EYRE AND WILLIAM SPOTTISWOODE,
PRINTERS TO THE QUEEN'S MOST EXCELLENT MAJESTY.
FOR HER MAJESTY'S STATIONERY OFFICE.

1876.

[C.—1487.] *Price* 6*d.*

The EARL OF DUFFERIN to the EARL OF CARNARVON.

Ottawa, February 24, 1876.

MY LORD, (Received March 9.)

I HAVE the honour to enclose herewith for your Lordship's information a report signed by the Attorney-General, the Solicitor-General, and the Solicitor for the Commissioner of Public Lands of Prince Edward Island, detailing the proceedings before the Commissioners under the "Land Purchase Act, 1875," and the subsequent action in the matter before the Supreme Court of that Province. January 27.

2. Your Lordship will perceive from this Report that the cases adjudicated upon while Mr. Childers acted as Commissioner were those of the proprietors whose names are here noted in the margin. William Cundall, Eliza M. Cundall, Charlotte A. Sulivan, Robert B. Stewart, Sir Graham Montgomery, The Hon. S. P. Fane, Lord Melville, James F. Montgomery, Colonel Cumberland, Miss Fanning.

3. That of these proprietors Miss Sulivan and Mr. Fane, having applied to the Supreme Court of Prince Edward Island for a rule setting aside the award made to them, obtained on the 17th of November last a rule *nisi*, which rule the Court on the 17th of January following made absolute, declaring the award *in toto* void; and that an appeal has been entered from this decision to the Supreme Court at Ottawa.

4. That Mr. R. B. Stewart's counsel, having applied first to the Court for a rule setting aside his award, withdrew the application, and pressed only for the continuance of an injunction restraining the Public Trustee from executing a conveyance of the property; and that finally the court having directed the awarded money to be paid into the Treasury in gold to the credit of the estate, Mr. Stewart was on January 27th served, pursuant to the Act, with a notice that within 14 days a conveyance of his estate would be executed by the Public Trustee to the Commissioner of Public Lands.

5. It was upon the consideration of these three cases, as your Lordship will remark, set forth in paragraphs 11 to 16 of the Report, that the Supreme Court discovered the most radical defects of the disputed awards.

6. The Report further shows that Lord Melville, Sir G. Montgomery, William Cundall, and Eliza M. Cundall applied to the Court on December 7th for an order for the payment of their awards, the deeds conveying away their estates having been executed on November 27th; that an order *nisi* was given, and that subsequently no cause against it having been shown, the Court ordered the awards in these four cases to be paid on the 1st of April, unless cause should be shown on or before that day.

7. That Mr. James Montgomery finally obtained a rule absolute referring back his award to the Commission on the ground of mistake committed by the Commissioners, and that it is probable, in the view of the absence from the Commission of Mr. Childers, the Chairman at the making of the award, fresh legislation will be required to authorise the re-hearing of the case.

8. That the cases of Lieut.-Colonel Cumberland and Miss Fanning were deferred until the decision of the Court was made known in those of Mr. Fane and Miss Sulivan.

9. At paragraph 19 the Report commences to notice the condition of the cases which came before the Commission after the appointment of Mr. Wilmot in the place of Mr. Childers, and your Lordship will learn that in these cases the Commissioners, awaiting probably the judgment of the Supreme Court on the applications before it, have filed no awards.

10. The Report mentions further some legal difficulties which appear likely to impede the settlement of more than one case that will come before the Commission when it re-assembles on the 26th of July, the day to which it now stands adjourned.

I have, &c.

The Right Hon. the Earl of Carnarvon, (Signed) DUFFERIN.
&c. &c. &c.

Enclosure.

Sir, Charlotte Town, January 27, 1876.

In reply to your letter of the 18th instant asking us to furnish you with a report of all proceedings before the Commissioners under the Land Purchase Act, 1875, and also embracing therein the subsequent action of the several proprietors in the Supreme Court who may either have applied for the amounts of their awards or have moved the Court to have the award set aside, we beg to submit the following Report :—

1°. The assent of the Governor-General to the Land Purchase Act, 1875, was published in the Canada Gazette on the 26th of June 1875.

2°. On the 2nd day of August 1875 the Commissioner of Public Lands, under the second section of the Land Purchase Act, 1875, notified George W. De Blois, Esq., the known and recognized agent of Charlotte Antonia Sulivan, that the Government of this Island intended to purchase her township lands in this Island under the said Act.

3°. A similar notice was also served upon the under-mentioned proprietors or their agents on the dates set opposite their respective names ; that is to say, on—

Robert Bruce Stewart on the 20th July 1875.
S. C. B. P. Fane per G. W. De Blois, Agent, 2nd August 1875.
Sir Graham Graham Montgomery per S. H. Hanland, Agent, on 2nd August 1875.
Right Hon. Lord Viscount Melville per John Longworth, Agent, on 26th July 1875.
Lt.-Col. Cumberland and wife per E. J. Hodgson, Agent, on 26th July 1875.
Maria J. M. Fanning per E. J. Hodgson, Agent, on 26th July 1875.
John A. MacDonell on 23rd July 1875.
James F. Montgomery on 24th July 1875.
William Cundall on 24th July 1875.
E. M. Cundall on 24th July 1875.

4°. The Right Hon. Hugh C. E. Childers, the Commissioner appointed by the Governor-General in Council, arrived in this Island to enter upon his duties on or about the 29th day of July 1875. J. T. Jenkins, Esq., had been previously appointed Commissioner on behalf of the Government of this Island by the Lieutenant-Governor in Council.

5°. J. S. Carvell, Esq., was on the 31st day of July 1875 appointed Commissioner on behalf of William Cundall and Eliza Mary Cundall, two of the proprietors, and on the same day the three Commissioners under the 13th section of the Act notified the Commissioner of Public Lands of Mr. Carvell's appointment. On the same day the Commissioner of Public Lands presented a petition to the Commissioners under the 14th section of the Act. The notice required by the 14th section of the time and place of hearing the matters referred to, the Commission was in these two cases published in the Royal Gazette of the date of 31st July 1875, and the time of hearing was fixed for Monday, the 16th August 1875.

6°. On 5th August 1875 the Commissioner of Public Lands was notified of the appointment of R. G. Haliburton as Commissioner on behalf of the following proprietors, namely :—Charlotte A. Sulivan, R. B. Stewart, S. C. B. P. Fane, Sir Graham Graham Montgomery, Right Hon. Lord Viscount Melville, Lieut.-Col. Cumberland and wife, Maria S. M. Fanning, John A. MacDonell, and James F. Montgomery. Petitions were immediately presented to the Commissioners by the Commissioner of Public Lands, and an advertisement in each case published, appointing Monday, 23rd August, as the day for hearing the matters referred under the Act.

7°. The Commission met for the first time on Monday, August 16th, in the matter of the estates of William Cundall, and Eliza Mary Cundall, and sat till Wednesday (inclusive), when it adjourned till August 23rd.

On 23rd August Court again met and sat continuously until Friday, the 3rd day of September, during which time the estates of Charlotte A. Sulivan, R. B. Stewart, Sir Graham G. Montgomery, Hon. Spencer, C. B. P. Fane, Lord Melville, James F. Montgomery, Col. Cumberland and Miss Fanning were brought before the Court in rotation, and the evidence and addresses of counsel heard.

On the 3rd day of September the Court adjourned till Monday, the 11th day of October ; the Chairman, Right Hon. H. C. E. Childers, stating that he would be unable to act as Commissioner any longer.

On Saturday, the 4th September, awards were made by the Commissioner in all the before mentioned estates adjudicated upon by them, the proprietors' Commissioner declining to join in those of R. B. Stewart and Charlotte A. Sulivan.

On Monday, 6th September, all these awards were filed with the Prothonotary as required by the Act, and copies thereof served on the proprietors on or before the 9th September.

The amounts awarded were as follows :—

William Cundall - - - -	$9,200
Eliza M. Cundall - - - -	$4,450
Charlotte A. Sulivan - - - -	$81,500
Robt. B. Stewart - - - -	$76,500
Sir Graham G. Montgomery - - -	$12,400
Hon. S. C. B. P. Fane - - - -	$21,200
Lord Melville - - - - -	$34,000
James F. Montgomery - - - -	$15,200
Col. Cumberland - - - -	$31,900
M. S. M. Fanning - - - -	$20,200
Making a total of - - -	$306,550

8°. At the October sittings of the Supreme Court James F. Montgomery, on his own affidavit, and that of R. G. Haliburton, arbitrator, obtained an order *nisi* to refer the award made in his case back to the Commissioners to correct an alleged mistake made by the Commissioners in making up their award. Cause was shown on behalf of the Government against this order at the Michaelmas term, but the order was made absolute by the Court, and the award referred back. As Mr. Childers the Chairman is in England, and in all probability will not return here, legislative action will probably be required to enable this case to be re-heard by the present Commissioners and brought to a final end.

9°. On the 29th day of October 1875 the Colonial Treasurer certified, pursuant to the Act, that the amount of each of the foregoing awards had been paid into the Treasury to the credit of the several estates, and between that day and the 3rd day of November, the Public Trustee notified Miss Sulivan, R. B. Stewart, Lord Melville, Sir Graham Graham Montgomery, S. C. B. P. Fane, William Cundall, and Eliza M. Cundall respectively, that within 14 days thereafter he would execute a conveyance of their estates to the Commissioner of Public Lands pursuant to the Act.

10°. In the cases of Col. Cumberland and Miss Fanning it was found impossible to get correct descriptions of their estates until after the rules to set the awards aside in Sulivan's and Stewart's cases had been obtained, and after that it was deemed advisable to await the decision of the courts in those cases before giving the notices in those of Cumberland's and Fanning's.

11°. On the 10th day of November 1875 an application was made by Robert B. Stewart to the Supreme Court, to set aside the award made with reference to his estate, and to restrain the Public Trustee from executing a deed thereof to the Commissioner of Public Lands pursuant to his notice. The Court granted a rule *nisi* to set aside the award returnable on the 1st day of December on the grounds following :—

1. That the award was not final.
2. That it was uncertain.
3. Because a delegated authority must be exercised under it to ascertain metes and bounds of lands to be conveyed by Public Trustee to Commissioner of Public Lands.
4. Because the money paid into the Treasury was in legal tender notes of the Dominion of Canada, which are not legal tender in this Island.

The Court at the same time granted an *interim* injunction restraining the Public Trustee from executing a conveyance.

12°. On the 17th day of November similar applications were made on behalf of Charlotte A. Sulivan and S. C. B. P. Fane, and rules *nisi* were obtained to set aside the awards in these cases on the same grounds as those expressed in the rule in Stewart's case.

13°. On 1st December the Court adjourned the argument to the 4th December, and on the 4th December cause was shown on behalf of the Government against the rules *nisi*. As the grounds were the same in each of the three applications of R. B. Stewart, S. C. B. P. Fane, and C. A. Sulivan (excepting one additional one in Fane's case, which his counsel withdrew before the argument), it was agreed to argue the cases as one at the

commencement of the argument. R. B. Stewart's counsel withdrew his rule in so far as it applied to set aside the award, and confined his application simply to continue the injunction restraining the Public Trustee from executing a deed of his estate.

The arguments lasted four days.

14°. On the 17th day of January the Court gave judgment in Stewart's case, directing the money awarded to be paid into the Treasury in gold within 14 days to the credit of the estate, with liberty to Stewart to apply to make the injunction perpetual if the gold was not paid within that time.

15°. On the 18th day of January the Treasurer certified pursuant to the Act that the amount of the award in Stewart's case had been paid into the Treasury in gold, and on the 27th day of January R. B. Stewart was served with a fresh notice, that within 14 days from the service of that notice upon him the Public Trustee would execute a deed of his estate to the Commmissioner of Public Lands.

16°. The Supreme Court also gave judgment on the 17th day of January in Sulivan's and Fane's cases, making absolute the rules *nisi*, and declaring the awards absolutely void. On several grounds, among others for not describing the lands for which they awarded compensation, and for not finding specifically a number of points which the Court held it necessary the award should find *on its face;* such as the performance or non-performance of the conditions of the original grants, the payment or non-payment of quit-rents, the number of acres held by squatters and their names, &c., &c.

17°. On the 27th day of November the Public Trustee, pursuant to the notices served by him, executed deeds to the Commissioner of Public Lands of the respective estates of Lord Melville, Sir Graham G. Montgomery, Wiiliam Cundall, and Eliza Mary Cundall.

On the 7th day of December following, applications were made to the Supreme Court in behalf of the last four named proprietors, to obtain an order for the payment of the amount awarded them.

The Supreme Court in each of the four cases granted an order *nisi*, calling upon the Commissioner of Public Lands to show cause, on the 10th December, why the several amounts awarded to the said four proprietors would not be paid to them respectively.

No cause was shown on behalf of the Commissioner of Public Lands, but the Supreme Court made a second order in each of the four cases (which is to be published in England and this Island as directed by the Court), that the amounts of the awards will be paid to the respective proprietor applicants on the 1st day of April next, unless cause to the contrary be shown on or before that day.

18°. The above statement concludes my report of the cases heard before the Commissioners while Mr. Childers presided as Chairman. With respect to the remainder of the proprietory estates, I beg to submit the following statement of facts.

19°. The Hon. L. A. Wilmot, appointed Commissioner by the Governor-General in Council in lieu of Mr. Childers who had resigned, opened the Court on the 11th October.

20°. The estate of John Apollenarius MacDonell, which had been docketed before Mr. Childers, was first heard and disposed of.

The Court then took up and heard the following estates in the order herein inserted. The usual and necessary notices had all been given as required by the Act, and the hearing in succession had been properly advertised in each case:—

J. A. MacDonell; H. J. Cundall, guardian of heirs of Winsloe estate; H. J. Cundall, Trustee of Louisa Montgomery; John Alister MacDonald; Margaret Stewart; H. J. Cundall; Albert Hinde Yates and Mary J. Yates; Phillips F. Irving and George W. De Blois; Arthur Irving; Thomas Wright and Anne C. Wright; R. Rennie and others; Mary Anne and Jane H. Traverse; Agnes C. and Robert Bellin; Edward J. Hodgson; Daniel Hodgson, Trustee of Charles Wright; William C. MacDonald; Henry Palmer; Henry C. Douse; Esther Douse; Mrs. Duncan McMillen, guardian of Henry Winsloe, Stanley Winsloe, and Agnes Winsloe; Helen Diana Wiggins and Caroline M. Wiggins, and Flora Townshend Wiggins; William Campbell, Robert Longworth, and Henry Jones Cundall, Trustees under the will of late William Douse; Sydney Tudor Evans and Amelia Evans; Mary Crooke and Frances Crooke; Anna Maria Lawton, Margaret Gordon Lawton, Catherine Lawton, Mary Bushe Lawton, and Mary Lawton Clarke.

21°. On the 20th day of November, after the hearing of the above cases, the Commissioners adjourned the Court until the 26th day of July next 1876.

No awards have been filed by the Commissioners as yet in any of the above cases. I presume they were awaiting the decision of the Supreme Court on the form of the awards before signing theirs.

Some time before the adjournment of the Court on the 9th day of November 1875, advertisements had been published by the Commissioners appointing the 3rd day of December at the House of Assembly Room as the time and place for proceeding with the hearing of the applications in the four estates following, viz.:—Augustus E. C. Holland and Mary Holland his wife, Frederick F. Holland, John Roach Bourke, and George Augustus MacNutt, Trustee of Marguerite S. Stevens.

22°. It will be necessary to re-advertise these cases again when the Court re-assembles, and indeed some questions may arise as to whether the proceedings have not entirely lapsed, and the powers of the Commissioner been exhausted *quoad* these four estates.

23°. The estates of James Douse and Arthur Irving were found on the hearing thereof not to be within the Act, and were abandoned.

24°. The estate of the Bishop of Nova Scotia and Theophilus Des Brisay was called on for hearing, but an objection was taken that Des Brisay was a relation of Dr. Jenkins, the Commissioner of the Local Government, and as it appeared the relationship actually did exist the case had to stand over. Legislative action will be required in this case also to enable it legally to be adjudicated on.

25°. A number of other estates, most of them small in area, remain to be advertised and brought to a hearing, but of course nothing can be done in them until the return of Judge Wilmot next spring.

26°. In the estate of H. J. Cundall, Committee of John Winsloe, a lunatic, as the Master of the Rolls decided that the Act did not extend to estates held by committees of lunatics, proceedings were stayed after the initiatory notice of the intention of the Government to purchase the estate was served; and it will be necessary to provide for this case in any amended Act that may be passed.

27°. We annex hereto copies of the judgments delivered by the judges of our Supreme Court in the three cases of Sulivan's, Stewart's, and Fane's, and the Commissioner of Public Lands has appealed from the judgment given in Sulivan's and Fane's cases to the Supreme Court at Ottawa.

We have, &c.

FREDK. BRECKEN, Attorney-General.
W. W. SULLIVAN, Solicitor-General.
LOUIS H. DAVIES, Solicitor for the Commissioner of Public Lands.

To the Honourable T. Heath Hanland,
Provincial Secretary.

PROVINCE OF PRINCE EDWARD ISLAND.

JUDGMENTS of the SUPREME COURT, delivered in Hilary Term 1876, on Appeals from Awards of the Commissioners appointed under the Provisions of "The Land Purchase Act, 1875," with the Act published as an Appendix:—

In the case of the Estate of Charlotte Antonia Sulivan and the Commissioner of Public Lands; also in the case of the Hon. Spencer Cecil Brabazon Ponsonby Fane and the Commissioner of Public Lands.

Chief Justice Palmer.—This is rule to set aside two awards or inquisitions of the Commissioners appointed under the "Land Purchase Act, 1875."

The awards are in the following form:—

"Dominion of Canada,
"Province of Prince Edward Island.

"In the matter of the Application of Emanuel MacEachen, the Commissioner of "Public Lands, for the purchase of the estate of Charlotte Antonia Sulivan, and the "'Land Purchase Act, 1875.' The sum awarded under sec. 26 of the said Act is "eighty-one thousand five hundred dollars ($81,500).

"(Signed) HUGH CULLING EARDLEY CHILDERS,
"Commissioner appointed by the Governor-
"General in Council.
"JOHN THEOPHILUS JENKINS,
"Commissioner appointed by the
"Charlottetown, 4th September 1875. Lieut.-Governor in Council.

The grounds set forth on obtaining the rule are—

First. The award is not final, as the 28th section of the said Act requires the Commissioners to take into their consideration (sub-section *e*) the number of acres of land possessed or occupied by any persons who have not attorned to or paid rent to the proprietor, &c., who claim adversely, &c. (Sub-section *f*.) The quitrents reserved in the original grants, and how far the payment of the same have been waived or remitted by the Crown.

Second. The award is uncertain, as it does not show for what the money is awarded,—either the number of acres, or for whose estate,—or quality thereof.

Third. The Public Trustee has, in his 14 days' notice, described, by metes and bounds, certain lands therein, which he is not authorised to do by statute.

Fourth. This is alleged a delegated authority which does not appear, and it is not known whence derived.

Fifth. The money alleged to be lodged in the Treasury is of a species not a legal tender in this province.

Before proceeding to consider these points, it will be well to notice the general objects of the Act of Assembly in question. On the face of the Act the object is expressed to be " to convert the leasehold tenures into freehold estates, upon terms just and equitable " to the tenants as well as to the proprietors." The term " proprietors " also received legislative definition, and is expressed to include and extend to any person for the time being, receiving or entitled to receive the rents, issues, or profits of any township lands (exceeding 500 acres in the aggregate) in his own right, or as trustee, guardian, or administrator for any other person, or as a husband in right of or together with his wife.

The lands to be dealt with are declared to be leased or unleased, occupied or unoccupied, cultivated or wilderness,—saving always any estate not exceeding 1,000 acres when in the proprietor's actual occupation, but not otherwise tenanted. Exception was taken by counsel for the Rule, that the " Land Purchase Act, 1875 " was passed contrary to the " British North American Act, 1867 " ; but I am of opinion that it comes within section 92 of the last-mentioned statute, where, in sub-section 13, authority is expressly given to the Province to legislate exclusively on " property and civil rights " in the Province."

It may properly be asked, in the first instance, what estates, in point of quality, the Local Act is intended to embrace and operate upon ? By sections 32 and 33 it is very plainly expressed that the estate to be conveyed to the Commissioner of Public Lands is to be an estate *in fee simple*, and *nothing* less. Whether it is intended that the Commissioners, by the uniting or compounding of *lesser* estates, in some manner represented or brought before the Court, are to convert them into a fee-simple for the purposes of the Commissioner of Public Lands, does not, by any means, appear so clear. It was urged by one of the counsel opposed to the rule that tenants for life, remainder-men, and reversioners in any one certain tract of land, if entitled together to the fee-simple estate therein, would each one be bound by the statutory notice being duly published ; and that, therefore, whether appearing before the Commissioners or not, would be one and all bound by a conveyance in fee-simple executed by the Public Trustee. The total absence, however, of all special provisions or machinery in the Act to give effect to such an important power as this, is itself sufficient to warrant the conclusion that such could never have been the intention of the Legislature. The Act, in terms, it is true, provides for the dealing with estates held by husbands in right of, or together with, their wives, respectively ; but this evidently means instances where the wife is the owner in fee, and it legalises the necessity of dealing with the husband as representing by his marital right the fee-simple of his wife, while he is in receipt of the rents, issues, and profits of the estate. A party coming before the Commissioners' Court as tenant for life only, although, unquestionably, in receipt of the rents, issues, and profits of the estate ; yet, if the remainder-man should keep aloof, it does not appear by the Act how the fee-simple is to be transmitted to the Commissioner of Public Lands. Does the Act of Assembly intend that the Land Court Commissioners should deal with a case of this kind manifestly appearing to them, and yet award the fee-simple value of the estate, and leave the tenant-for-life and remainder-man to obtain the proportions of their money through the medium of the Supreme Court ? I do not think so.

The Commissioners power, at least their compulsory power, is confined only to estates in fee-simple. My object in inquiring into and considering this point now will appear as I further proceed in my judgment ; and, while remarking on it, I may here refer to the cases of *Regina* v. *London and N. West. Rail. Co.*, 22 L. T. 346, and *Brandon* v. *Brandon*, 11 L. T., (N. S.) 673, in both of which cases the Jury summoned under land

compensation statutes cannot decide upon questions of title; they are only to assess the value of land claimed.

The mode which our Land Purchase Act prescribes for bringing an estate into the Commissioners' Court is enacted in a very summary manner by the second clause, which states merely that the Commissioner of Public Lands, after 60 days publication of the Governor General's assent to the Act, shall "notify any proprietor or proprietors that "the Government intend to purchase his or their Township lands under this Act."

The Commissioners being all appointed and the day of holding their Court published as the Act directs, nothing more appears necessary than the above notice to enable the Commissioners to proceed upon their enquiry: there are no pleadings, no record, no submission in writing under the hands of the parties, and the Commissioners are left to shape their course of adjudication by the Act itself.

The 2nd section, it will, doubtless, be observed, does not require that the Commissioners of Public Lands in his notice should be bound to set forth, by any certain description, the lands or local situation of the estate referred to. Had the Act intended he should do so, it would surely have prescribed such a direction in express terms; but the extreme, if not insuperable, difficulties which such a duty would impose on this officer, it may be concluded, were present in the mind of the Legislature, and when we refer to the ample powers which are conferred upon the Arbitrators, especially by the twentieth section of the Act to compel the production of plans, instruments, documents, &c., &c., it may fairly be presumed that the Legislature never intended to impose such a task upon that officer. Indeed, were the officer to undertake such a duty, and from lack of information which he could not acquire, omit some portion of the proprietor's lands, or mistake the course of some one or more of its boundaries, such error might exclude a portion, if not the whole of a particular estate from the scope of the Act, although in point of fact doubtless within its operation.

In the absence, then, of any record or written submission to start with, the Arbitrators can only refer to the statute itself, and here, as it appears to me, we find in the 28th section the matters of submission upon which those functionaries are to base their judgment and finding. This section is as follows (here the learned Judge read the section), now the language of the section is imperative, viz.:—

"The Commissioners *shall* take the following facts or circumstances into their "consideration."

Can the Commissioners, then, venture to make a final and just award, and at the same time totally disregard these elements, or at least various of them which must forcibly strike the mind of every reader of the statute, whether learned or layman, as testing the real value of the estate while in the possession and enjoyment of the owner; for instance, the gross rental paid by the tenants; the actual net receipts of the proprietor. The number of acres occupied by persons holding adversely to the proprietors. The performance or non-performance of the original grants from the Crown, and how far the despatches of the Colonial Secretaries of State have operated as waivers of any forfeitures. The quitrents reserved in the original grants. The number of acres of vacant or unleased lands.

Now a proprietor may own 20,000 acres of land, whereof he has leased 12,000 acres, and the other 8,000 remain freely at his own disposal. The leased land may yield him at its maximum an income of 500*l.*, a year. The *unleased* has become the most valuable part of the Township, and he knows that he can at any time he chooses lease it out in farms to produce from it a rental of 700*l.* a year; ought not this to show the necessity of a separate and distinct valuation of these lands:—

If he and his ancestors have taken that estate subject to its forfeiture to the Crown in case certain specified conditions be not performed, if those or any of those conditions have been violated and he holds the estate by the uncertain clemency of the Crown, the estate must be much less in value than if such conditions were all duly performed, or being broken were waived by the Crown.

Further, if there be a lien on the estate for quit rents, past or present, would it be of no greater value to the owner than it would were all such quit rents duly paid or remitted; and is the Commissioner of Public Lands to take a conveyance of the estate and sell it out in small tracts without knowing whether these conditions attach to it or not? Again, if a certain number of persons have got into and hold adverse possession amongst them of a block of seven or eight hundred acres of land in different parcels or tracts, would not the value of the proprietor's estate be increased by the certainty of their not having a legal title, or diminished if it were certain they *had* gained such title. Now, to satisfy the statute are we assured that all these things were entered upon and duly considered by the Arbitrators in the words of the 28th section "*in estimating the amount*

of compensation?" Have they duly considered the tracts of land held adversely, the lands claimed by purchasers under the Land Assessment Acts, or under other Acts by which strangers or third parties hold *primâ facie* titles by, and if so what lands are they? What quantity do they amount to? How are they distinguished or bounded? The validity of title to these tracts of land *cannot* be decided by the Arbitrators. The Supreme Court is the tribunal for that; but, what assurance does the award give that these matters have been duly considered? Not the slightest. Suppose that the Arbitrators have calculated on a certain quantity of land being held by squatters or under land tax sales, &c., and disallowed the proprietor the price of these; and suppose they mistook the law regarding these species of title. How is the proprietor or the Supreme Court to arrive at a knowledge of this, and of the amount, if anything, deducted for such tracts of land? or of their localities or descriptions? The award on the subject is perfectly silent and thereby equally uncertain. The award gives no boundaries for either freehold or leasehold land, nor what land in any form or of any kind the Arbitrators have given compensation for; all is left in uncertainty. It was argued by Counsel that the Public Trustee is as capable of finding the boundaries as the Commissioners. He might be, but in the first place it does not appear to be his duty: nor is he invested with the necessary power to enable him to do so. He is not authorised to sign a deed until the sum is awarded to the proprietor, and not until 14 days even after that. He must convey according to the boundaries which the Arbitrators have adjudicated upon. He must convey the whole land they have valued and *no more*, and he ought first to have some assurance and certainty that what he does convey was the land of that proprietor brought into Court, and that for which he has been compensated. The Island Act of Assembly, 27 Vict. cap. 2, commonly referred to as the "Fifteen Years' Purchase Act," confirms the former Land Commissioners' award made previously to that Act, and settles the question of the arrears of quit rents with respect to the estates whose owners are named in such Act; but notwithstanding this, there is no telling whether the present Arbitrators, in their award, were guided as regard the quit rents, by this Act or not. Counsel opposed to the rule have agreed that section 26 of the Land Purchase Act, fully enables and only requires the Arbitrators merely to award the sum they have agreed to as a money compensation and nothing more; and that those matters in subsections of said section 28, are merely matters directory of what the Arbitrators shall or shall not consider of in deliberating; but I wholly differ from this, and consider these matters as subjects to be arbitrated upon, as much so as if they were drawn up in a written submission to which each of the parties had assented and subscribed with their own hands. Nor are they, by any means *collateral* matters, not requiring to be stated by the Arbitrators as further argued by Counsel, who cited in support of that, the case, viz., "In Re. Byles 25 L. J., Exch. 53, where under the Lands Clauses Consolidation (Imperial) Act, 1854, an arbitration was held where some damages had accrued by the foundering of a river embankment built by private agreement, and compensation for taking land connected with the embankment was found by an arbitration; there the damages arising from the giving way of the wall was, and very properly, considered a question quite collateral to the damage arising from the works of the Company, coming under the head of compensation. But, in the present case, the subjects specified in section 28 of our statute, are the very vitals of the award.

In the case of *Round* v. *Hatton*, 10 M & W., cited by Counsel, an action of trespass to plaintiff's house and lands was, by an order of Nisi Prius, referred to an Arbitrator who was "*to settle at what price and on what terms the defendant should purchase the "plaintiff's property.*" The order of reference enjoined nothing further, no particular *circumstances* for the Arbitrator's consideration in computing the amount, *and it gave him no power* to determine which were the premises in question, *and no dispute existed on the subject.* And the affidavits, as remarked by Lord Ch. B. Abinger, *did not show any dispute as to what was the property to be adjudicated upon.* And the Arbitrator awarded that after deducting certain sums he settled the sum of 153*l.* odd, to be the price at which defendant should purchase the plaintiff's property: in this the case was one plain and almost isolated fact, differing materially from the one in question, which is constituted of several disputed facts of great diversity in character, and several of them most material and important as regards the main subject to be decided.

With reference to the case of *Wrightson* v. *Bywater*, 3 M. & W., 199, the law, as there laid down, does not appear to me in favour of the present award, for while the award in that case was upheld, yet the grounds of the Court's decision, as clearly enunciated by Baron Parke, show that the case is one which ought by no means to apply to the present one. "The question, therefore," he says, "is reduced to this,—whether, "under this reference, it is necessary to the validity of any award to be made pursuant

" to it, that it should decide all the matters in dispute." And this is *a mere question of construction*, for there is no rule of law requiring it; *its necessity arises from the contract of the parties.* The old rule was, that unless the *submission* expressly made it conditional with an " ita quod," an award of part only was good. This was laid down by Lord Coke, and it was so held in Dyer and many other cases. In more modern cases it has been said that an *express* condition is not required; for in *Bradford* v. *Beavan*, Willes 270, Ch. J. Willes says: " I am willing to carry it as far as it has been carried already, " because, were it not for the cases, I should be of opinion that, when all matters are " submitted, though *without such condition*, all matters must be determined; because it " was plainly not the intent of the parties that some matters only should be determined, " and that they should be at liberty to go to law for the rest." But beyond this the cases have not gone; *and it is still the question, whether the parties intended all to be decided.* So here we should look to find what is the submission or the contract of the parties; that is to be found in the Act of Assembly,—a compulsory one, no doubt,—yet such as the Court must be governed by to decide whether it was intended by the Legislature that one or more, and how many, and which of the subjects in section 28 and its sub-sections were intended to be decided by the Arbitrators.

The case of *Willoughby* v. *Willoughby*, 12 L. J., 280, was cited to show that an *award*, made under a private Act of Parliament, for dividing and allotting lands and creating a rentcharge in lieu of tithes, on the owner's lands, the award was held good although the Arbitrators awarded a yearly rentcharge of one entire sum on all the lands of the said owner, in a certain parish instead, as it was contended he ought to have done, awarded a separate part of the land and thereby made an apportionment of the whole sum. But the objects of the two Acts, that of the above private Act of Parliament and the Land Purchase Act, and the offices and powers of the Arbitrators appointed under each, respectively, are very different, and render it very easy to comprehend the distinction between the two cases. The private Act of Parliament, in the Willoughby case, was substantially for the commutation of tithes, and the 31st section of that Act, at once declared that all the lands of Sir H. Willoughby, in a certain parish, should be subject to a certain rentcharge in exoneration of the lands of all other proprietors in the same parish. Section 30 authorised a Barrister to fix the amount of this rentcharge *in money*, and section 34 enacted " that it shall be lawful for the said Barrister, by his said award, " to divide and apportion the said rentcharge into so many parts or proportions *as he shall think fit*, and to charge each such part or proportion on a separate and distinct part of the lands and grounds of the said Henry Willoughby.

Now, the clear object of the Act in this respect, was to commute the tithes of this particular parish; to establish a fixed sum of money in lieu of them, and to secure this sum to the Rector and charge it *on all* the lands of Sir H. Willoughby in that parish, and then the object of the Act would be fulfilled. The *apportioning* of the tithes among the distinct tracts of land, was left in express terms, *at the discretion of the Arbitrator;* the doing of this was not necessary at all to enable him to decide what, in money, the commuted amount in the whole should be. It was not necessary that he should make *any apportionment.* That work was an accommodation merely to the occupiers of the lands, and was in a measure *collateral* to his duty. A description of each piece of Sir H. Willoughby's land was, in like manner, no matter of necessity; neither he nor the Rector would thereby be the more secure in their respective rights, nor would it afford either any assurance at all that the Arbitrator, in selling the commutation, had the more carefully or the more conscientiously discharged his duty.

In the case of *Mays and another* v. *Cannel*, 24, L. J., (C. P.) 41. There was an action of ejectment, after issue joined, referred by a Judge's order to a Barrister who had power, if he found in favor of the lessors of the Plaintiff, to order immediate possession to be given of the land, &c., in question, to the lessor of the Plaintiff, and also how and in what manner such possession should be given, and if not given, how it should be taken.

The Arbitrator awarded, viz.:—

" I award in favour of the lessors of the Plaintiff, and order that immediate possses-
" sion be given of the land and premises in question, in this action, to the lessors of the
" Plaintiff."

Objections were taken to the award as not being final or certain, the principal one being that it did not find what land and premises the lessors were entitled to receive, and what were to be given. It was decided that, although there were two demises, there was only one real Plaintiff, and the Arbitrator ordered possession of the premises to be given to him, namely, Thos. Mays; that he, Mays, was to take it at his peril just as he would have to do if there had been a verdict in the action of ejectment. That although the Arbitrator had power to award how possession was to be given, *he was not bound to*

exercise it. There was, therefore, neither difficulty nor risk of injustice in allowing the award to operate.

The next case referred to by Counsel against the rule is *Wilcox* v. *Wilcox*, 4 Exch. 499, where, in a case of trover, a verdict was agreed to by consent for the damages claimed, subject to be reduced by an Arbitrator. There were several pleas, viz.: not guilty, not possessed, and payment of money into Court. The Arbitrator's award was that the verdict should stand, but the damages were to be reduced to a sum he named. A rule *nisi* was moved for to set aside the award, the Arbitrator not having disposed of the issues. The rule was refused, because the Arbitrator had, in *legal effect*, disposed of each issue.

This authority, I think, has very little application to the present case.

The case of *Taylor* v. *Clemson*, 2. 2. B. 339, is the only case cited in support of the award, which, in my view of it, would appear to have any material bearing on the present case. It arose under a railway Act (Imperial, 6 & 7 Will. 4. cap. 191,) by which, if it became necessary under any one of certain circumstances set forth in section 138, gave jurisdiction and authorised the Railway Company to issue their warrant to the Sheriff to summon a compensation jury. This had to be done in the case, and compensation was assessed. Objections were afterwards taken to the warrant and inquisition (and which latter the Act declares shall be a record) that they did not show which of the cases or circumstances, specified in said section 138, had occurred to justify the taking compulsory means, &c., and it was there held that the Company's warrant and Sheriff's inquisition, being annexed together, might be considered as one entire proceeding, and any deficiency existing in the one might be aided by reference to the other. In this case *the warrant*, it will be observed, stated that it *was issued pursuant to the Act*, and commanded the Sheriff to summon a compensation jury, &c., the *inquisition* stated that the jury had been returned in obedience to the warrant, the amount of purchase money awarded, *and judgment given by the Sheriff pursuant to the Act.* The principal objection taken to the jurisdiction of the Sheriff's proceeding in this case was that, looking at the face of the inquisition, no previous dispute about the value or compensation for the land, as required by said section 138, appeared to have occurred *before resorting* to the Sheriff's jury, Chief Justice Tindall in giving judgment, observed as follows :—" We " think the very circumstance of recourse having been taken by the Company to the " compulsory means of ascertaining the amount of the purchase money, by summoning " the jury and the proceeding to judgment in the regular mode pointed out by the " statute, affords the natural and necessary inference that a previous agreement for the " purchase could not be made."

Now if we refer to the form of the award of the Commissioners, the subject in question, it does not even express, as in the inquisition in the case just mentioned, that the purchase money was awarded and judgment *given pursuant to the Act;* its insufficiency and defects, tested even by the decision of this last-mentioned case, would show that it cannot be consistently sustained.

The case of *Ostler* v. *Cooke*, 13, Q. B. 143, is in some respects similar to *Taylor* v. *Clemson.* In the former, the very matters which were urged as exceptions to the validity of the sheriff's inquisition were decided to be matters into which the sheriff *and jury could not inquire*, and which, therefore, it was not necessary to mention in the warrant or inquisition; hence a very wide distinction between that case and the one now under discussion, where the subject matters objected to by Counsel in support of the Rule are of such a character as the 28th section of the Land Purchase Act, 1875, enjoins upon the consideration of the arbitrators.

In the case of *The Duke of Beaufort* v. *Swansea Harbour Trustees*, 29 L. J. (N. S.), Com. P. 241, there was a submission concerning the compensation price to be allowed for land taken; also the amount of damages to be given for the severance of the land from the rest of the estate. Chief Justice Erle, in giving his judgment remarked " that the " umpire, in drawing up his award, *recited the submission*, and in which reference was " made to the compensation price, as also *what other*, if any, sum or sums of money " should be paid by the said trustees in respect of damages for the severing the lands," &c. The award, after *reciting the submission, &c.*, the umpire went on to say, " having " viewed the premises and heard the parties, and weighed and considered the evidence " *and matters so referred to me as aforesaid*" (that is, how much is to be given for the value of the land, and how much *for severance damage*, if anything), he awards the sum to be paid for the value of the land, but is entirely silent as to damages for the severance; his silence does, therefore, express that as regards severance damage, he gives none. " I think," continues Ch. J. Erle, "*from the nature of the claim*, it did not require an " affirmative decision." This is not like the case where the question referred is, what is

the title to land, or how much rent is to be paid *in future, or any matter of that sort, &c., &c.*

In the case of *Tribe* v. *Upperton*, 3 Ad. & E. 295, a Bill in Chancery was filed to rescind an existing agreement for the sale of a partnership business and some leasehold premises where the same was carried on. Afterwards the parties to the suit executed mutual bonds of submission to arbitration of all matters in difference, including said suit. The award made, although it adjudicated fully and specially on all the matters in dispute, did not award what was to be done with the chancery suit, although it did award that each party was to bear his own costs of said suit. Lord Denman, Ch. J., considered the matter of the chancery suit *a subject of express reference*, and that the omission to award on it was fatal, and that although the award might in substance decide upon every point in the agreement *and in the chancery suit*, such an award may leave a perpetual source of litigation open, and it was set aside.

The case of Doe dem: *Madkins* v. *Horner*, 8 Ad. & E., was similar to the above, and the award was declared bad, because, while it awarded to the plaintiff a certain part of the premises sued for, giving the metes and bounds, the award said nothing as to the residue, thereby leaving the matters neither final nor certain. It was decided *that there should have been an express decision* as to the residue of the land; and Patterson J. said he thought the residue should have been set out by metes and bounds.

In the case of *Randall* v. *Randall*, 7 East. 81, the parties went to arbitration under mutual bonds of submission of all actions, controversies, &c., depending between them; *also* of and concerning the value of certain hop-poles and potatoes in *certain lands*, and taxes and rates, &c., and *also* the rent to be paid annually for the said land. The arbitrators awarded on all the above matters but *the rent*. Lord Ellenborough, Ch. Justice, says: "*As it appeared* that there was *another* matter referred on which there " was no arbitrament," the award was held bad.

In the case of *Price* v. *Popkin*, 10 Ad & E. 139, an action of covenant was brought by the lessee *v.* landlord, for not repairing demised premises. The cause was referred to arbitration by a judge's order. The defendant (the landlord) had taken away from the demised premises certain gates, locks, bolts, and fastenings, and applied them to his own use. The award, amongst other things, awarded that the plaintiff should fix and set up other gates, locks, bolts, and fastenings, in the place and stead of such as were removed. One of the grounds alleged for moving to set aside the award was that the arbitrator had not stated the number, price, quality, description or value of those articles ordered to be set up anew; and on this ground principally the award was set aside.

In the matter of *Riders and Fisher*, 3 Bing. N. C., 874, an award between these parties was made under Bonds of Arbitration: the dispute arose out of a contract, entered into, by which the Riders agreed to build a house, offices, and out-buildings for Fisher; but the latter alleged the work to be defective and imperfect, both in respect of materials and workmanship, and the Riders on their part claimed something for extra work and deductions, in regard to omissions of work dispensed with. These matters were specified in the submission, the Arbitrators awarded a named sum to be paid the Riders, in full satisfaction and compensation of and for all the matters in difference between them, and so referred to them the said arbitrators. Tindall, C. J.: " Upon reading the order of " reference and the award, it appears the arbitrators have not done that which they " were authorised and required to do. They were to determine concerning all claims, " differences and disputes relating to the alleged defects in the building, relating to " the charge for *extra* work and to deductions for omissions; and to ascertain what " balance might be due in respect of the extras and omissions. On the award they " have taken no notice of the two first subjects of dispute; and it remains doubtful " whether the *sum* awarded is to be applied in discharge of extra work or to a general " balance of account."

The award was set aside.

In the case of *Robinson* v. *Henderson*, 6 M. & S. 276, an award was made by certain Arbitrators, by which they found 230*l.* to be due from the Defendants to the Plaintiffs, and out of that sum they awarded that Defendant should pay the Arbitrators 93*l.*, being the expenses of preparing the agreement of reference and their award, and for their charge trouble, and attendance on the reference and arbitration, and certain costs which they awarded to be paid to the Solicitors of Plaintiffs, in respect of certain actions mentioned in the agreement of reference, leaving the sum of 136*l.* which they awarded to Plaintiffs. It was held by the Court that the award was void for uncertainty in directing a sum in gross to be paid to the Arbitrators, for the objects above mentioned, without specifying the particular sum to be appropriated to each object.

In the case of *Wakefield* v. *Llanelly*, 3 De G. J. & S., a company having given notice to take a leasehold hotel, belonging to and occupied by the Plaintiff, it was referred to arbitration to ascertain the value of the hotel and premises, and the damages sustained or to be sustained by the Plaintiff, by reason of the Company's works, and the amount of compensation to be paid by the Company to the Plaintiff in respect thereof. The Arbitrator awarded a sum to the Plaintiff, as the compensation to be paid by the Company to him for all his interest of whatever nature in the leasehold. It was held that it was impossible to say certainly whether the Arbitrator intended or not to include the *damages* in this award, and that the award was too uncertain for the Court to act upon, and that the bill for specific performance of it had rightly been dismissed, though the Plaintiff offered to waive all claims for damages beyond the award.

I have now noticed all the authorities that were cited by Counsel for and against the rule and some few in addition, all as bearing on the first four grounds on which the Rule was granted, pointing out the distinction of those which I conceive differ from the cases in question; and on the subject and law of *awards*, there is no doubt that numerous other authorities may yet be found equally applicable, but I consider the Land Purchase Act, 1875, to be one very anomalous in character, strictly analagous to few, if any, to be found in the books, and therefore to be construed in a great measure upon its own elements, aided of course by those constitutional principles and established rules which at all times guide and bind the Judges of British Courts of Law. In some respects this Act has been assimilated to the Lands Clauses Consolidation Act of the British Parliament, although materially different in this respect, that by that Act the compulsory power of obtaining land for public purposes is intended to operate upon estates of almost every quality known to the law, and has provided machinery for the deciding of different titles, which provision has not been introduced or, as it appears was ever intended to operate in this province.

It has been urged by Counsel that section 45, after the period of 30 days from the making of the award precludes all inquiry into its validity by taking away the right of appeal and of Certiorari, &c., and rendering it final and conclusive; there can be but little doubt that where the Arbitrators have, within their jurisdiction, fully and fairly proceeded according to the intention of the Act, and duly exercised their judgment on the matters of fact presented to them their judgment is intended to be and must be deemed binding; but where they have manifestly erred *in law* the section referred to does not in my opinion preclude either party from seeking the intervention of the Supreme Court of the Province to correct their error. In the words of Lord Denman " the clause " which takes away the Certiorari does not preclude our exercising a superintendence " over the proceedings, so far as to see, that what is done shall be in pursuance of the " Statute. The Statute cannot affect our right and duty to see justice executed."

If the proceedings of the Arbitrators prove to be void in law or *ultra vires*, the party whose right would otherwise be bound is not compelled either within or after the 14 days to apply to the Supreme Court to set them aside. He may lie by and await his opponent's action.

I regret very much the decision which must follow from the views I have expressed, as there must have been a large amount of expenses incurred on the country in the proceedings of the Commissioners; but we are bound to administer what we conscientiously believe to be the law applicable to each case. We are not permitted to depart from the decisions of Judges in superior positions, and of higher authority than ours, however much we may be sensible of the inconvenience or disappointment that may ensue from our judgment.

The awards in these two cases, I hold to be void and must be set aside.

The Commissioner of Public Lands v. *R. B. Stewart.*
The Commissioner of Public Lands v. *Hon. Spencer Cecil Brabazon Ponsonby Fane.*
The Commissioner of Public Lands v. *Charlotte Antonia Sulivan.*

Mr. Justice Peters.—These three cases embracing the same points were, at the wish of Counsel on both sides, argued as one case, subject to some exceptional questions applicable to some or one of them singly, which are therefore to be separately considered, after those common to all have been disposed of. The cases themselves from the interests involved, are important, while some of the points invoke the discussion of constitutional questions of the highest importance, and I must say that during the long

argument of four days, the Counsel on both sides have displayed a research and knowledge of principles of law, backed by a calm, dispassionate, but close and able reasoning, highly creditable to them, and which has greatly assisted me in coming to a conclusion, on the many different points on which I am called to express an opinion.

The general facts are well known and may be thus briefly stated. This Island long, ago granted in large blocks of about 20,000 acres each, was, as time went on, let by the grantees, in small parcels, generally for long terms of 100 to 900 years, reserving an acreable rent of about 1*s*. The grant contained conditions, for a breach of which the Crown might have entered and avoided the grants, and they also reserved a quit rent. Out of these tenures sprung an agitation which, under various names, for many years occasioned much discord in the Colony, and in the year 1862 an Act was passed, under the provisions of which a large portion of the Island was purchased by the Government from its owners. But a considerable portion remained in the hands of others who declined to sell, and the Compulsory "Land Act of 1875" was passed. Under its authority a tribnual called the Commissioners Court was organised, aud it is out of proceedings instituted in that Court, for obtaining a compulsory transfer of these Lands to the Government, that the present questions arise. As it will be necessary in giving a construction to various parts of this Act, to consider its character, *i.e.* how far its provisions are of a penal or arbitrary nature, it will be convenient to state its provisions and effect in the first instance.

The preamble recites "that it is very desirable that the leasehold tenures should be "converted into freehold estates, upon terms just and equitable to the tenants, as well "as the proprietors." It then, by its 1st section, defines that the word "Proprietor" shall be construed to include and extend to any person for the time being receiving or entitled to receive the rents and profits of any Township lands exceeding 500 acres in the aggregate, whether such lands be leased or unleased, occupied or unoccupied, cultivated or wilderness; *provided*, that nothing therein contained shall be construed to affect any proprietor whose lands in his actual use and occupation, and untenanted, do not exceed 1,000 acres. The effect of this is not only to subject proprietors, usually so called—to be deprived of their reversionary interest in their leased lands and of their unleased lands—but also to deprive all owners of lands in fee simple, no matter how acquired, of all they hold over that quantity. It, then, after providing for the appointment of the tribunal, and pointing out the mode of procedure by its 28th sec., enacts, that in estimating the amount of compensation to be paid to proprietors for their interest or right to the lands, the Commissioners shall take the following facts and circumstances into consideration, and sub-sec. (e.) of this 28th sec., on which many questions arise, is as follows: "The number of acres possessed or occupied by any persons, who have not "attorned to or paid rent to the proprietor, and who claim to hold such land adversely "to such proprietors, and the reasonable *probabilities* and expense of the proprietor "sustaining his claim against such persons holding adversely in a Court of Law, shall "each and all be elements to be taken into consideration by the said Commissioners, in "estimating the value of such proprietor's lands; (1.) the conditions of the original "grants from the Crown; (2.) the performance or non-performance of these conditions; "(3.) the effects of such non-performance, and how far the Despatches from the English "Colonial Secretaries to the different Lieutenant-Governors of this Island, or other action "of the Crown or Government have operated as waivers of any forfeitures; (4.) the quit "rents reserved in the original grants, and how far the payment of the same have been "waived or remitted by the Crown." It must be observed that this 28th sec., and its sub-sections, directs the Commissioners to consider many matters involving very nice and difficult questions of law, which, according to the opinion they form, may materially reduce the amount of compensation they award, and yet no provision is made by the Act that they shall be persons possessing the legal knowledge qualifying them to decide such questions. The 29th, 30th, & 31st sections are as follows: The 29th enacts "when "the award shall have been made, it shall be published by delivering a copy to the pro-"prietor or his agent, duly authorised, as aforesaid, and filing the original with the "Prothonotary." The 30th section provides "that at the expiration of sixty days from "such publication of the award the Government shall pay into the Colonial Treasury "the sum so awarded by the said Commissioners, or any two of them, to the credit of "the suit or proceeding in which such award shall have been made." By the 31st section "the Colonial Treasurer shall, immediately after such payment, deliver to the Pro-"thonotary of the Supreme Court a certificate of the amount paid into the Treasury, "as aforesaid, which shall be in the form of this Act, annexed, marked A."

On the construction of these three sections another important question depends.

The whole award is as follows:—

In the matter of the application of Emanuel McEachen, the Commissioner of Public Lands, for the purchase of the Estate of Robert B. Stewart, and the Land Purchase Act, 1875.

The sum awarded under section 26 of the said Act by us, two of the Commissioners appointed under the provisions of the said Act, is Seventy-six thousand five hundred dollars ($76,500).

Signed, &c.

The first objection is that the award does not show how the Commissioners have adjudicated on matters they were bound to adjudicate upon. It is urged by the proprietors, that by the 28th section the Commissioners are directed to take the matters mentioned in the sub-section into consideration for the purpose—if determined adversely to him—of reducing his compensation, and, therefore, the award or judgment should inform him how they were determined. The Counsel for the Plaintiff contend that the whole duty of the Commissioners is contained in the 26th section, which enacts "That "after hearing the evidence adduced, the Commissioners shall award the sum due to "such proprietor as the compensation or price to which he shall be entitled, by reason "of his being divested of his lands and all interest therein and thereto," and that the 27th and 28th sections are merely directory, and the only power the Commissioners had was to award a sum of money. But it is difficult to see how this last contention can be sustained. It is, we know, usual in awarding compensation for lands compulsorily taken for public purposes, to add to the value an allowance on account of the sale being compulsory; the 27th section prohibits the making such allowance; now the thing here forbidden to be allowed for, was a known subject matter, of the existence of which there could be no doubt, and therefore it is positively forbidden, but there were other subject matters, *i.e.* probabilities and expense of sustaining claim against squatters, conditions in original grants, and quit rents, the existence of which was uncertain and could not be ascertained, until the Commissioners had heard evidence respecting them, examined documents, and considered the legal questions raised by such evidence and documents. But with regard to these the power of the Act could give no positive injunction, but necessarily leaves their *existence*, as well as the extent of their depreciating effect on the value of the proprietor's interest, to be determined by the Commissioners. It is a rule in the construction of Statutes, that no clause, sentence, or word, shall be held superfluous, void, or insignificant unless it be so repugnant to other parts, that the two cannot stand together. Now the words of the 28th section are, that in *estimating the amount of compensation* to be paid to any proprietor for his interest, the Commissioners *shall* take the following facts or circumstances into their consideration. What are these facts or circumstances? The number of acres possessed by persons who claim to hold adversely, and the reasonable probabilities and expense of the proprietor in sustaining his claim against them in a Court of Law, shall be taken into consideration, in *estimating* the value of such proprietor's lands. Then, must they not inquire and determine whether any and what persons hold adversely, and what quantity each person so holds, before they can decide whether any and what deduction should be made on that account? The section then proceeds, either as part of the same sub-section or as a distinct sub-section, it is not clear which, to specify further matters which the Commissioners are to take into their consideration. (1.) The conditions in the original grants. (2.) The non-performance of these conditions. (3.) Effect of such non-performance. (4.) Quit rents reserved in the original grants, and how far the payment of the same have been waived by the Crown? Must they not inquire and determine whether the conditions were broken, and the effect of such breach, and whether any and what amount of quit rents are due, before they can decide whether any and what amount shall be deducted on that account? Now, if these matters are not directed to be taken into consideration, that they may if determined one way operate to cut down the amount of compensation, what possible meaning can be attributed to them? It is quite true that the Commissioners' investigations would result in awarding a sum of money. But as a preliminary to ascertaining the amount of that sum, they had to decide on these several subjects which they are thus imperatively directed to take into their consideration, and the decision on all or some of those matters may, therefore, materially have affected the ultimate amount awarded.

Then, is it necessary to give validity to the award that their decisions on these matters should appear on its face? From silence respecting a subject matter, before an Arbitrator, other than those on which he has expressly adjudicated, a decision on it will sometimes be presumed. In *Harrison* v. *Creswick*, 13 C. B., 399, a cause and all matters in difference was referred; the Defendant set up a cross claim before the Arbi-

trator. The award professed to be made *de præmissis*, and directed a gross sum to be paid to the Plaintiff, but said nothing about the cross claim; yet it was held good, for it must be presumed, from the silence of the Arbitrator on the subject, that he had negatived the cross claim, and Baron Parke says: "The rule is this, when there is a further "claim made by the Plaintiff, or a cross demand set up by the Defendant, and the "award professing to be made of and concerning the matters is silent respecting such "further claim or cross demand, the award amounts to an adjudication that the Plaintiff "has no such further claim, or that the Defendant's cross claim is untenable. But "where the matter so set up *requires to be specifically* adjudicated more silence will "not do." Thus, in doe dem, *Madkins* v. *Horner*, where the Plaintiff claimed to be entitled to recover lands upon two separate demises, and the Arbitrator, to whom all matters in difference in the cause were referred, awarded of and concerning the matters referred, that the Plaintiff was entitled to the possession of a certain part of the lands sought to be recovered, but did not say upon which demise. The Court held the award bad for not deciding upon which demise the Plaintiff was to recover, and also *for not awarding* for the residue of the lands. "There are many other cases," B. Parke continues, "which might be put where the Arbitrator's silence would not be decisive, if an "Arbitrator be called upon to decide whether or not a partnership existed between two "two persons, or, *what was the interest which a party took in certain property, whether* "*an estate in tail or an estate in fee*, a general award would be insufficient." So in the *Duke of Beaufort* v. *Swansea Harbour Trustees*, 8 C. B. N. S., 756, though under the Land Clauses Consolidation Act the Arbitrator, in estimating compensation, is to have regard to the value of the land, and also damage (if any) by severance. An award giving compensation for the land only was held good, for the Court must presume, from the silence of the Arbitrator, that, in his opinion, there was no damage from severance. Now why, in these cases, was a decision on a matter not mentioned presumed? Because the very terms of the finding implied it. But in the present case there are not two separate heads of demand, but one demand only—"*the value of the land*," with a direction to ascertain the existence of certain facts, which, if found, are to be considered in estimating the value of the proprietor's interest in it. Now, if the Commissioners found these facts against the proprietor, they would find only *one* sum, it might be $70,000. And if they found them in favour of the proprietor, they would still find only *one* sum, it may be $70,000. Then how can the bare award of only one sum raise any presumption whether they did or did not decide the questions respecting these "facts or circumstances," or how they decided them? It seems to me clear that silence here will not do.

Another strong reason why the manner in which the Commissioners have dealt with these facts should appear on the award, is this: The 45 sec. enacts that "no award made "by the Commissioners shall be held or deemed to be valid or void for any reason, "defect, or informality whatsoever; but the Supreme Court shall have power on the "application of either the Commissioner of Public Lands or the Proprietor, to remit to "the Commissioners any award which shall have been made by them, to correct any "error, or informality, or omission made in their award: provided always, that any such "application to the Supreme Court to remit such award shall be made within thirty "days from its publication." Now, to enable a proprietor to avail himself of the privilege of having an award sent back to the Commissioners, to rectify a mistake injuriously affecting his interest, it might be absolutely necessary to find out what their decision in some of these facts really was; but where is he to look for it? If he cannot find it on the award, what means has he of finding it out at all? No judgment appears to have been pronounced by the Commissioners; everything is locked up in their own breasts, and they themselves, from lack of legal knowledge, must have been *inopes consillii* in dealing with many of these questions. When, in addition to this, we find the avenues to every Court of Review carefully closed, and the door even to this power of sending it back to the Commissioners also closed, after the expiration of thirty days from publication of the award. It does seem to me, if ever there was a case where an award should show a specific dealing with each preliminary matter submitted, it is this—I will put a case to illustrate what I mean—suppose the Commissioners find a large part of a township covered with squatters, there is no privity with the proprietor, what course of investigation must the Commissioners pursue? They must proceed to examine, not only how long each squatter has held possession, and the extent of land occupied, so as to decide whether the proprietor is barred by the Statute of Limitations, but also the extent of the *possessio pedis* 20 years ago, as distinguished from the extent of a *possessio pedis* commencing within that period. Now, every lawyer knows that this may involve very difficult legal questions, and suppose the Commissioners (being wholly unacquainted with

the law relating to the Statute of Limitations) in such case, to hold the greater part of a township to be irretrievably lost to the proprietor, by reason of adverse possession, when in law he is not barred at all, and in consequence award him only $5,000 compensation, when but for this mistake in law they would have given him $20,000. Surely it would be very important in such a case that the proprietor should be at once informed of this, so that he might come to this Court and ask to have it remitted for re-construction and correction, before the thirty days expire. The Plaintiff's Counsel, in showing cause, offered an affidavit with the short-hand writer's notes of the trial before the Commissioners attached; it was objected to, but we admitted it; I am not quite sure we were correct in doing so. But there is a part of Mr. Davies' speech which shows so clearly what the contention about squatters was, and how materially it must, if sustained, have affected the amount of compensation, that I extract it. He says, page 185, that the question about conditions will be spoken to in closing, and that Stewart has no title to Lot 47. "We will show that the Lot is held adversely, and that his Schedule of tenants and "arrears is merely fictitious. We will show that the persons against whom he claims "these large arrears he has never been able to put in possession of the farms. They "are not legally bound to pay, and Mr. Stewart has added these fictitious sums to "increase his claims. We will submit that these farms were, at the time he leased "them, held adversely by other parties. We contend, therefore, that the Court cannot "allow him for these arrears, and we contend also that if he is allowed anything for that "part of the Lot upon which he has obtained a foothold, the allowance should be but a "very small sum indeed, as against the Crown he has no title, and he has already drawn "from the Township much more than the value of any precarious possessory interest of which he may be supposed to be the owner. On Lot 30 we will show that a large "quantity of land has been held adversely for many years by those who came there "before Mr. Stewart himself got possession of the Lot. We will show that, with one "or two exceptions, they have remained in possession, that in some instances he has "brought actions against them, but has not succeeded in ousting them. The contention that their possession is to be confined to land which they have had actually under "cultivation for twenty years has never been sustained in any Court of Law in which "the whole question has been brought up. We will show that those persons have held "the rear of their farms by open notorious possession, that their lines have been run "out, and that they have openly exercised over the land the rights of ownership, and in "every way have treated it as their own. It is not necessary that people should have "land under crop for twenty years to acquire possession of it. That is not the law. "It is quite sufficient if the possession is open, and marked by clear boundaries, that "give notice to the world. On Lot 40 we can show that the holders had a possession "of that kind. Mr. Stewart might as well claim the land at the bottom of the sea, as "the land which has been thus held for twenty years." And the Attorney-General, in his closing speech, insists on the breach of conditions in the original grants, quit rents, as matters which should diminish the compensation. At page 186 the Court says, "We "do not wish you to argue the question of forfeiture now, if you will do so at the close, "but we will be glad to know from you then what you consider to be the distinct effect "of your argument; we would like to know whether, if we think your argument sound, "you consider that we should give Mr. Stewart nothing for his land, or should make a "deduction, and if so, what deduction." Mr. Brecken, in his reply to this question, page 233, says Mr. Stewart is not in a position to take advantage of any concessions. Your Honours are sitting here under a special Act of the Legislature, and *part of your instructions is that you shall consider the performance or non-performance of the original grants.* A great many squatters appear to have been examined. Some say they hold 100, some 50 acres; one says he had 12 acres cleared or fenced 20 years ago; some, they cannot say how much, perhaps 15 or 20. This seems to have been the contention and the nature of the inquiry. Now, what is the law as to acquiring title by adverse possession? Briefly this, that a squatter is not considered in possession of anything, except what he has fenced, cleared, or cultivated, or appears to occupy in some way as open and notorious as if he had fenced, cleared, or cultivated it; he is said to acquire title inch by inch, *i.e.*, it must appear that each acre claimed has been so held for 20 years, and if it appears that he held 5 acres in that way for 20 years, and the next 5 only for 18 or 19 years, he can only hold the first, and the proprietor (if he make out a *primâ facie* title) will recover the other. How did the Commissioners decide this contention? Who can answer the question? The reference made by section 28, subsection (e), obviously might bring two classes of squatters' claims before the Commissioners; one where the occupants had not held for 20 years, another where they had, and thus raise two distinct questions; admitting that as regards the first, they had a

right, by some mere guess or approximation, to decide conclusively, as a matter of fact, for with respect to such cases there could be no question of law, what the proprietor's expense in ejecting that class of squatters would be, and to deduct it from the intrinsic value of his land, without giving him any information as to how much they did deduct on that account—yet surely with respect to the other, whether they sustained.* Mr. Davies' contention, that Stewart had no title to Lot 47, and a large part of Lot 30, either on account of breach of condition or adverse possession or not, they should have stated how they did decide it; otherwise, by a plain mistake in law, Stewart might be wronged out of thousands. Even a common award *inter parties*, which failed to dispose of such a contention, would be bad. Thus Russel awards, 253, "If the fact that a "matter submitted has *not* been decided be brought before the Court in any regular "manner, as by plea or affidavit, according to the nature of the proceedings, the award "will be deemed invalid, however good it may be on its face." So in *Stone* v. *Phillipps*, 4 Bing. K. C. 37, four actions of ejectment and all matters in difference were referred; but there was a fifth action brought before the Arbitrators, which they omitted to notice in their award; on this being shown by affidavits, the Court held that, as the matter omitted was not capable of being severed, the award was bad in toto. In *Ross* v. *Boards*, 8 A. & Ell. 295, there was a contention before the Arbitrator, whether the Defendant who had agreed to sell a piece of land to Plaintiff, had a good title to it, the award directed Defendant to convey the land to Plaintiff, but omitted to find whether Defendant had a good title or not. Littledale says, "The Arbitrator should have stated in "his award whether the title was good or bad;" it is said he has done so in effect. I had some doubt, but I am of opinion that he ought to have proceeded in a direct way to determine the question as it arose out of the agreement; he should have said whether the title was good or not. What is the law with respect to the liability of a vendor who cannot make out a marketable title? Dart, V. & P., 871, says, "On a contract for the "sale of land, the purchaser, as a *general rule*, is only entitled to *nominal damage for* "*the loss of his bargain*, where the vendor, through want of title or otherwise, having "acted *bonâ fide*, is unable to convey the estate." And in *Angel* v. *Eitch*, L. Rep. 3. Q. B., 314, Chief Justice Cockburne says, "That in the complicated state of the law "of real property the owner of an estate is often unable to make out such a title as a "purchaser is compellable to accept, and it is, therefore, only reasonable, if the purchaser "refuses the title, that the vendor's liability should be limited to repayment of the "deposit and expenses." So in equity a purchaser cannot claim a conveyance of an interest to which a vendor shows a doubtful or defective title, with an abatement in respect of the imperfection of title extending to the whole estate, Dart. V. & P., 979. And in Loyd on Compensation it is laid down that if a Railway Company contracts for the purchase of land, they may claim a 60 years' title. But if they refuse to accept the *best title the vendor can make*, the latter may call on them to complete or *abandon* the contract. Now the Statute which deprives a man against his will of property he has long possessed, and at the same time authorises deductions from its value on account of real or fancied defects of title, which never injured, and which each year became less likely to injure him, is certainly hard enough, and contrary to the principles which govern like questions regarding voluntary and compulsory sales at law and in equity, where the doctrine is, if you do not like the title you need not accept it, but if you do accept it you must pay the full value. But we are asked in effect to put a much harder construction on the Statute, by holding that those who make the deductions may so frame their award as to conceal from the owner the *grounds* on which they are made, and thus in the shape of deductions really make the owner pay thousands of dollars damages on account of *supposed* defects which, it stated, he might have shown to be unreal; would not this be the height of injustice? But it is a rule that the Court must not put a construction on a Statute which is unjust and absurd, if it will bear a construction which is reasonable and just. Here the Legislature no doubt saw that it was leaving difficult questions of law affecting property of very great value to a tribunal quite incompetent to decide them, and therefore provided the appeal to this Court, to have the award remitted back, so that by the light reflected on the question by the discussions here, it might better discern its duty and correct its errors. We cannot suppose the Legislature did not know that, when preliminary questions were raised affecting the amount to be awarded, the Commissioners were bound to decide them, and there is nothing to show an intention in this respect to set aside the usual mode of proceeding in such matters by permitting the necessary requisite of stating how they did decide to be dispensed with. But it is said the Act makes the Commissioners the sole Judges of the *value of land*, and also of the *amount* which, after a consideration of the "facts and circumstances" mentioned in the Act (when correctly ascertained to be 66 facts) they will

* Sic.

deduct from the value, but in my judgment it does not make them the absolute judges of any questions *of law* necessary to be decided, before determining whether any and what amount is to be deducted. There is not, and never was, any rule of law restraining the Court of Queen's Bench from correcting a mistake *in law* of an inferior Court; it is a part of its inherent jurisdiction to do so. In *Regina* v. *Bolton*, 14 Jur., 432, Coleridge says: "Now there can be no doubt that when the Court of Quarter Sessions acts "under a mistake of *the law*, in coming to a conclusion upon certain facts brought "before them, this court will direct a mandamus to issue, but when the sessions, having "had the facts before them, exercise their judgment upon them, and decide a question "arising out of these facts, it is otherwise." Where ordinary Arbitrators make a mistake in law, the Courts generally refuse to correct it, but this is because the parties, having chosen to withdraw their dispute from the Court, and appointed their own judges, they must submit to the consequences of their miscarriage. *Fuller* v. *Fenwick*, 3 C. B., is a strong instance of this. But these Commissioners are not ordinary Arbitrators, or anything like them. None of them, as in ordinary Arbitrators, are *voluntarily* appointed by the Defendant; one is *nominally* appointed by the proprietor; but he only appoints "least a worse thing come unto him." This distinction is pointed out by Mr. Hodges, in his book on Railways, 325, he says: "The reason why awards cannot be impeached "for errors in fact or errors *in law*, not apparent on the face of the award, seems to be "founded on the principle that the Arbitrators are judges of the *parties' own choosing*. "A distinction on this point seems, however, to exist in the case of awards made under "the Consolidation Acts, because, as we have seen, if either of the Arbitrators refuse to "concur in the appointment of an umpire, the Board of Trade are empowered to appoint "him without any previous communication with any of the contending parties." Under this Act the Governor-General appoints the umpire, without any communication with either of the parties. I would remark, that in the preceding observations I have excluded the effect of the restraining clauses, reserving the discussion of that until I consider how the case is to be disposed of.

Quit Rents.

But there is another and distinct point made by Mr. Hodgson as to the quit rents, which I have not noticed. He contends that the quit rents are a charge on the land, and therefore, unless the Commissioners give an express decision, finding that none are due, or that they have been taken into account in awarding compensation, the proprietor might be sued for them, and therefore the proprietor was entitled to have this fact found. The Counsel for the Government contend that this rent is merely a charge on the land, and that no action will lie against the proprietor. By the Island Act, 14th Vict. c. 3, in consideration of the Island Government undertaking to pay the civil list, the quit rents were, amongst other things made over by the Imperial Government to the Government of this Island; before this period there had been a correspondence with the Imperial Government respecting them, but there is nothing before the Court to show what the correspondence was; but at the end of sub-section (e) of the 48th section, the last question the Commissioners are to consider is "the quit rents reserved in the original grants and "how far payment of the same have been remitted by the Crown." This is a Legislative declaration that there is a question whether the quit rents are due or not; these two facts, therefore, are all that is before us,—first, that the quit rents, if due, belong to the Government of this Island; secondly, that there is a question existing whether they have been waived or remitted by the Crown or not. That the quit rents and arrears are a charge on the land there is no doubt, but although they are only a charge on the land, yet the proprietor may be indirectly liable; for if there be a tenant or purchaser, with whom he has covenanted for quiet enjoyment or against incumbrances, either could maintain an action against the proprietor. The tenant, if distrained on, or the purchaser for that, or because the land being liable to this rent, was not free from incumbrance. The case of *Hamond* v. *Hill*, 1 Coyn, Rep. 180, is so very applicable to this point that I have extracted it:—

"This was an action of debt upon a bond, where the condition was, that the defen- "dant should keep harmless the plaintiff from all jointures, decrees, annuities, damages, "claims, and all other incumbrances, and should perform the covenant in the indenture "dated the 2nd of May, 1702,—whereby the defendant conveyed to the plaintiff and his "heirs a messuage and lands, called Little Brusby, in the County of Sussex, and by the "same deed the defendant covenanted, *that the plaintiff should have, use, possess, and "enjoy, the premises aforesaid quietly and peaceably without any impediment from the "defendant, his heirs or assigns, or* any other person, and that clearly *acquitted and*

" *exonerated of and from all former and other grants, &c., rents, rentcharges, arrears of* " *rent, statutes, &c., charges and incumbrances* whatsoever. The plaintiff assigns for " breach, that the tenements aforesaid were charged and chargeable with one annual " rent, viz.: a rent of 11*s.* 6*d.*, to be paid to the Lord of the Manor of W. in the said " County, of whom the said tenements then and before were and are held under the " said rent and other services. The defendant, by his rejoinder, says that the rent of " 11*s.* 6*d.* aforesaid, was payable to the Lord of that Manor as a quit rent, incident to " the tenure of those lands, and that the plaintiff was not molested, &c., for any arrears " of that rent payable before the making of the indentures aforesaid. The plaintiff " maintained his replication, and the defendant his rejoinder; and upon this there was a " demurrer; and the question was, if the covenant was broken? And it was resolved " by the whole Court without any difficulty, that it was. For the defendant had " expressly covenanted with the plaintiff upon his purchase that he should have the " lands discharged of all rents; and, therefore, they ought to be discharged of this rent " as well as of all others; for a quit rent is a rent." In 3 Cruse. Dig. 514, sec. 52, it is said, " it has been stated in sec. 44 that quit rents and other customary and prescriptive " rights are comprised within the Statute of 32 Henry 8th. But Lord Coke lays it " down that this Act does not extend to a rent created by deed, nor to a rent reserved " upon any particular estate; for in the one case the deed is the title, and in the other " the reservation." I may observe that the Statute of 32 Henry 8th only requires that arowries conusances for rent, suit or service due by *custom or prescription* must be made within 50 years. In *Eldridge* v. *Knott*, Comp. R. 214, it was held that more length of time, short of the period fixed by the Statute of Limitations, and unaccompanied with any circumstances, was not in itself a sufficient ground to presume a release or extinguishment of a quit rent. The quit rents in the present case is due to the Crown, under a *reservation* in the grants.

It will be observed that in the other facts or circumstances, contained in sub-section (*e*), which I have already considered, a positive refusal—if such appeared—of the Commissioners to consider any of these questions, would have the same effect as a finding in all of them in favour of the propretor, that is, would leave the Commissioners to act as simple valuers and could not injuriously affect the proprietor's interest, as the amount awarded would then be what they considered the intrinsic value of the land, unreduced by any depreciatory effect, which might have resulted from any of those facts or circumstances being found against him. But the neglect or refusal to consider whether the quit " rents had been waived or remitted by the Crown," might result in depriving him of protect tion against a claim, he had a right (whether they had been waived or not) to be protected against, by their decision, which would then—the Government being party to the proceedings and owners of the " quit rents "—be a good plea in Barr to an action of covenant by a tenant or purchaser, alleging liability to these " quit rents " as a breach. This distinction might be found material in considering whether the Court should set aside the awards, or leave the proprietors to insist on their invalidity in an ordinary suit. Now, if I am correct in my view of this question, it is plain that the Commissioners have been passive as to a jurisdiction when they should have exercised it actively. Then comes the question: does the passiveness of an inferior tribunal, when it should have been active, render the proceedings void in the same way as action on a subject matter, *ultra vires*, would have done? *Thorpe* v. *Cooper*, 1 Bing, 127, is a direct authority that it does. That was the case of an award by Inclosure Commissioners, where the Commissioners had *omitted* to make an allotment or compensation in respect of tithes, in Waddington (a township in the parish to which the Inclosure Act applied). The Court say " the Commissioners, not having made any compensation for the tithes of Waddington, " must either have *rejected a claim* which they were directed to compensate, or from " inadvertence, have *omitted* to make compensation for it. In the first case they have *ex-* " *ceeded* their authority, in the second they have omitted to do what they were expressly " required to do. In *either view of the case* their award is *void, as to all such interests* " *as, are affected,* by their *exceeding* their jurisdiction or by their *omission.*" In that case there was a clause in the statute which saved the rights of all persons except those to whom compensation was awarded, but Ch. J. says, if there had been no saving clause, the decree would, on principle, have been the same, and in *Bunbury* v. *Fuller*, 9 Exch. 136, where this case is relied on by the Court on a similar point. The facts in *Cooper* v. *Thorpe* are said to be distinguishable in this, that the plaintiff in *Bunbury* v. *Fuller* could *not rely* on the operation of the saving clause, which was so narrowly worded that it would not embrace his case, but still the decision was notwithstanding the same. In *Cooper* v. *Thorpe*, the commuted tithes in respect of other places were enjoyed by the plaintiff, and the award was only held *protanto* void. But in the present case the

omission, for the reason already stated, affects the proprietor's interest in the whole subject matter, and also fails to provide him with a protection against future claims on account of quit rents to which, under the Act, he was entitled.

Description.

The third ground is that the award is uncertain, because it gives no description of the lands in respect of which compensation is awarded, and which are to be conveyed by the public trustee to the Commissioner of Public Lands. The Counsel for the Plaintiff argue, that as the award states the compensation to be given for all the lands owned by the proprietor on the townships named in the Commissioner of Public Lands, notice of intention to take it is sufficiently certain, inasmuch as the lands to be conveyed by the " Public Trustee " can be ascertained by showing what lands the proprietor owned at the time of making the award, but the notice of the Commissioner of Public Lands only states all the Proprietors Township Lands in this Island *liable to be taken under the Act*, including Lots 7, 10, 12, 30, and 47. The caption to the award is " in the matter of " the Commissioner of Public Lands for the purchase of the Estate R. B. S., and the " Land Act of 1875, and the award is *The sum awarded under the Act is* $76,500." This is the whole award, and there is, as it appears to me, nothing to show in respect of what lands the compensation is awarded, for it is consistent with the award that the Commissioners may have thought that R. B. S. had no title to Lots 10 and 47, and, therefore, they had do jurisdiction over them, or that they awarded no compensation for them. Or to put it in another way. The notice is, I will take all your lands liable, treat this as the submission, then the first question is, what lands are liable? Does an award simply saying $76,500 is awarded answer the question, by showing what lands are liable? But assuming, for argument sake, the award may imply that compensation was awarded for his lands in all the Townships named. In considering this point, we must first see whether, looking at the general provisions of the Act, any *intention* regarding this matter of description is manifested. It is evident that when under Sec. 2, the Commissioners give notice of intention to purchase, they cannot be possessed of the information necessary to give a particular description of the land, and, therefore, a general notice of all lands liable to be taken under the Act, must of necessity be sufficient. But when the proprietor has appeared in Court, then the Act provides that, " the said Commissioners shall have full power and authority to examine on oath any " person who shall appear before them, either as a *party interested* or as a witness, and " to summon before them all persons whom they or any two of them may deem it " expedient to examine upon the *matters submitted to their consideration, and the facts* " *which they may require to ascertain in order to carry this Act into effect*, and to require " any such person to bring with him and produce before them any book, paper, plan, " instrument, document, or thing mentioned in such subpœna, and necessary *for the* " *purposes of this Act.* And if any person so subpœned shall refuse or neglect to appear " before them, or appearing, shall refuse to answer any lawful question put to him, *or to* " *produce any such book, paper, plan, instrument, document,* or thing, whatsoever, which " may be in his possession or under his control." The 24th Sec. authorises the *Commissioners* to enter upon all lands concerning which they shall be empowered to *adjudicate*, in order to make such examination thereof, as may be necessary, without being subjected to obstruction, with a right to command the assistance of a Justice of the Peace and others, in order to enter and make *such examination* in case of opposition. Here, then, we see the Act, by the 20th Sec., gives the Commissioners ample power (to quote the words of the Act) to ascertain all facts which they may require *in order to carry the Act into effect.* While the 24th Sec. clearly confers authority which would enable them not only to examine the quality of the land, timber, &c., but also to cause such surveys to be made as might be necessary for *carrying the Act into effect.* Surely those powers were given not only to enable them to value the land, but also to frame such an award *concerning it* as would enable all others who had to aid in working out and *giving effect to their decision* to perform their parts also. Then, when we look at the 32nd Sec., we find it provided, that when the sum awarded is paid into the Treasury, the " Public Trustee " shall " execute a conveyance of the Estate of such " proprietor." What Estate and what proprietor? Why, of the Estate of a proprietor whose lands the Commissioners have adjudicated upon, and which the 20th and 24th Sections gave them ample means of accurately describing for the Public Trustees' information. But this is not all; the 32nd Sec., goes on, " which said conveyance may " be in the form to this Act marked (B)." When we turn to this form after reciting the payment into the Treasury, it proceeds: Grant unto X. Y., Commissioner of Public

Lands, and his successors in office all that (here describe the land particularly by meets and bounds). This form is a part of the Act, and the direction contained in it. To describe the land by meets and bounds is as binding and imperative as if it had been contained in the body of the Act. It is only where the Schedule is repugnant to the enacting part of a Statute that it loses its force as an enactment; see *Reg.* v. *Baines*, 12 A. & Ell. 227, and *Allen* v. *Flicker*, 10 A. & Ell. 640. The Commissioners were, therefore, bound to read and be governed by this direction as much as if it had been contained in the 26th or 32nd sections, or any other part of the Act, and were, therefore, in my opinion, bound in their award to give such a description as would enable the Public Trustee to fill up the form in the manner directed. But it is said the "Public Trustee" can make out a description from plans and documents; but his duty is only ministerial, how can he know what lands the Commissioners adjudicated upon, and gave compensation for? There is no authentic record of their proceedings to show what plans they adopted they may have excluded thousands of acres shown on the proprietor's plans and claimed by him, to which squatters had, or the Commissioners thought they had, acquired a good title by possession against the proprietor. A squatter is defined by Webster to be one "Who settles on new land without a title;" but as soon as the Statute of Limitations has run he ceases to be a squatter and becomes a proprietor, because he has then a good title in fee simple. How can the Public Trustee find out what parcels the Commissioners decided to be so held, and what they decided to be held by squatters, with a possession short of 20 years? It is true a conveyance of lands for which no compensation was awarded, would carry no title to the Commissioner of Public Lands. But should those squatters who were thus held to have acquired a good possessory title, be subjected to the danger, expense, and annoyance of having actions brought against them by the Commissioner of Public Lands, merely because the "Public Trustee" has chosen to include their names in the deed? The confusion and trouble this would occasion is shown in Robert Bruce Stewart's case, where the Public Trustee has, in his notice of intention to convey, included many farms conveyed by Mr. Stewart between 1856 and September last—in one case a farm sold and conveyed by him nearly 20 years ago is included. How many persons who may have purchased from proprietors, but who have omitted to record their deeds, may, in like manner, be included? It must be recollected that the conveyances to be executed by the "Public Trustee" will cover a large part of the Island, and any person whose land is improperly included in such conveyance—though it may give no title to the Commissioner of Public Lands—will have a cloud thrown upon his title, which might prevent his borrowing money on the security of his farm, and very likely impede or injure its sale if he wished to dispose of it. It is said by Pollock B., in the famous case of *Attorney General* v. *Sillem*, 2 H. & C. 421, "that in order to know what a statute does mean, it is "important to know what it does not mean." I think it certain that the Legislature never meant to authorise conveyances from which such mischievous consequences might result, to be made under the authority of this Act. Again, the 33rd section of this Act provides that the lands conveyed to the Commissioner of Public Lands, shall be held and *disposed* of by him, as if such lands had been purchased under the provisions of the Land Act of 1853. On turning to the 38th section of that Act, I find it provided that if the Commissioner of Public Lands conveys to a purchaser, lands in possession of a squatter, and the squatter shall refuse to pay rent to such purchaser, "he shall be liable "to be ejected on demand of possession being made, *and the only evidence required to* "*be given by the purchaser*, in the trial of such ejectments, to *entitle him to recover a* "*judgment therein, shall be the deed to himself hereunder from the Commissioner of* "*Public Lands*, comprising the land for which the ejectment is brought, the non-payment of rent, or refusal to take and execute the lease, or counterpart thereof, as aforesaid, when tendered; and the demand of possession, "saving to the occupier or "tenant the benefit of the Statute of Limitations, and also the right to show in himself "otherwise a good title, documentary or otherwise. But the burthen of proof *in such* "*case to be on the occupier or tenant.*" Now, at common law—and but for this Act every squatter has two defences — 1st, he may remain quiet and make no defence, and if the proprietor does not make out a *primâ facie* case he will be non-suited, and the squatter keeps his land; 2nd, if the proprietor make out a *primâ facie* case the squatter can then answer it by proving a possession of 20 years. But under this Act of 1853, the deed from the Commissioner of Public Lands *is itself made primâ facie* evidence of title, thus his first defence is swept away. Now, it is impossible to read the printed minutes of the Commissioners' proceedings to which I have already adverted, without seeing that it is not only possible, but very probable, that the Commissioners have held the whole or a part of a *great many* farms occupied

by squatters, to belong absolutely to them, and have awarded no compensation for them, and therefore, did not, and could not, adjudicate them to be transferred to the Government. Yet if the Court hold this award valid, the Public Trustee may, by a stroke of his pen, convey the lands of these squatters to the Commissioners of Public Lands, and thus bring them under the stringent provisions of the Land Act of 1853. I have said that the deed from the Public Trustee of land for which no compensation was given would convey no title. But how could the squatter avail himself of that? The deed to the plaintiff is *primâ facie* evidence of title against him. The duty of proving everything to make out *his defence* is thrown on him. And how can he or any one else prove what the Commissioners decided about his possession. To put a case. I recollect a few years ago, trying a case brought by Mr. Stewart against a squatter on Lot 30. Mr. Stewart failed to establish a *primâ facie* case. I non-suited him; the defendant therefore kept his land without being called on to prove his possession. A non-suit does not prevent a fresh action. Now let the Public Trustee include this same squatter's name in the deed. If an ejectment were brought against him for the land twelve months hence, the plaintiff's title would be *presumed* good, and that squatter would lose every acre of his land, of which he could not prove a twenty years' possession. The common saying, that "possession is nine points of the law," is really only another way of expressing a well established legal maxim, viz: "That possession is good against all "who cannot show a better title." It is, no doubt, very convenient, and may be very proper, that the Government, when it becomes possessed of the estates, should be enabled to deprive the squatters of the benefit of this maxim, which heretofore has shielded them against the claims of a proprietor who could not show a good title. But I don't think this Court can allow the Public Trustee, either through accident or caprice, to do so, without itself being guilty of a dereliction of that supervisory duty over matters subsequent to the award, which the law and this Act itself casts upon it.

Setting Aside.

Assuming the awards for all or some of the reasons I have pointed out to be invalid, the next question is, how are we to deal with them? The 45th sec., in the most emphatic manner, declares that no award shall be deemed void for "any reason, defect, "or informality whatever." That no appeal shall lie to any tribunal, nor shall the award or proceedings be removed by Certiorari or any other process, but with the exception of the power of the Supreme Court to send it back, it shall be binding, final and conclusive on all parties. No doubt such restrictions are binding on this Court, and prevent its inquiry into the correctness of any decision made by the Commissioners on subject matters within their jurisdiction, and which, it appears by the *express words* of the award or by *necessary implication*, they have decided upon, But the whole current of authorities show that where an Inferior Court exceeds its jurisdiction, by taking upon itself to decide on a matter over which it has no jurisdiction, or declines, or neglects to exercise a jurisdiction which it should have exercised, a statutory prohibition of this kind does not apply, and the power of this Court to interfere remains unrestrained. The authorities, on this point, were very fully discussed by Sir James Colvill, in giving the Judgment of the Privy Council in the *Colonial Bank of Australasia* v. *Willian*, 5 L. Rep. P. C. 442; in some respects that case resembles this. A Colonial Act had created a tribunal called the Court of Mines, with jurisdiction over all disputes arising out of mining affairs. Certiorari was taken away, and its decisions, subject to appeal to the Chief Justice of the Mines Court, were declared final. Two questions were raised before the Privy Council. First, that the Mines Court was not an Inferior Court. Secondly, that the Supreme Court was restrained from interfering with its decisions. The Privy Council held it was an Inferior Court, because every court whose jurisdiction, however wide, is limited both as to persons and things, must be inferior to the Supreme Court of the Colony. As to the second question, he says, "Their Lordships are, therefore, of "opinion that the winding up orders must be taken to be within the scope of the 244th "sec. of the Act, and that the power to remove the proceedings relating to them into "the Supreme Court has been taken away by Statute. It is, however, scarcely neces- "sary to observe that the effect of this is not absolutely to deprive the Supreme Court "of its power to issue a Writ of Artiorari to bring up the proceedings of the Inferior "Court, but to control and limit its action on such Writ. There are numerous cases "in the Books which establish that, notwithstanding the privative clause in a Statute, "the Court of Queen's Bench will grant a Certiorari; but some of the authorities "establish, and none are inconsistent with the proposition, that in any such case that "Court will not quash the order removed, except upon the ground either of a manifest

" *defect of jurisdiction* in the tribunal that made it, or of manifest fraud in the party " procuring it." And then, after saying that it did not appear that the Supreme Court had asserted a right to exercise power in excess of what he had laid down, but to have quashed the proceedings on the ground that the Court of Mines had acted without jurisdiction, and had been misled by fraud of the petitioning creditor, on both which points the Privy Council drew a different conclusion from the Supreme Court on the facts stated in the affidavit. He proceeds—

" In order to determine the first question, it is necessary to have a clear apprehension " of what is meant by the term, 'want of jurisdiction.' There must, of course, be " certain conditions on which the right of every tribunal of limited jurisdiction, to " exercise that jurisdiction depends. But these conditions may be founded either in " the character and constitution of the tribunal, or upon the nature of the subject " matter of the inquiry, *or upon certain proceedings which have been made essential* " *preliminaries to the inquiry, or upon facts, or a fact to be adjudicated upon in* " *the course of the inquiry.* It is obvious that conditions of the last differ materially " from those of the three other classes, objections founded on the personal incom- " petency of the Judge, or on the nature of the subject matter, or on *the absence* " *of some essential preliminary*, must obviously, in most cases depend upon matters " which, whether apparent on the face of the proceedings, or brought before the Court " by affidavit, are extrinsic to the adjudication impeached. But an objection that the " Judge has erroneously found a fact in which, though essential to the validity of his " order, he was competent to try, assumes that, having general jurisdiction over the " subject matter, he properly entered up the inquiry, but miscarried in the course of it. " The Superior Court cannot quash an adjudication upon such an objection without " assuming the functions of a *Court of Appeal*, and the power to re-try a question " which the judge was competent to decide." And after some other observations he cites a passage from *Bunbury* v. *Fuller*. It is a general rule that no Court of limited jurisdiction, can give itself jurisdiction by a wrong decision in a point collateral to the case upon which the limit to its jurisdiction depends, and however its decision may be final on all particulars making up together that subject matter which, if true, is within its jurisdiction, and however necessary in many cases it may be for it to make such a preliminary inquiry, yet upon this preliminary question its decision *must always be open to inquiry in the Superior Court.* In *Bunbury* v. *Fuller*, the Commissioners had jurisdiction over the matter, and were the sole judges of the amount of compensation, but to ascertain the exact amount, they had to decide whether the defendant's lands in Milden Hall were subject to tithes ; if they were not, the amount of compensation would be less than if they were ; he *decided* they were not, and although the Act said the award should be final and conclusive, and gave an appeal to the Quarter Sessions, the Court held that it was not conclusive. That the party injured was not bound to take the remedy provided by the Act and appeal to the Quarter Sessions, as "*no one is bound* " *to appeal against a nullity*," and that the correctness of the Commissioners' decision must be inquired into, and after quoting the passage I have already quoted from *Thrope* v. *Cooper*, that the omission to exercise jurisdiction, if injurious to either party, has the same effect as exceeding it, say " this is extremely reasonable." If the Commissioners in the present case have, for any reason, omitted to take a district of 9,700 acres of titheable land into account, nothing could be more unjust than that the plaintiff should be barred by this award, as to an unquestionable right before it was made, simply because it awarded him a compensation for tithes of land of a different class situate in other parts of the parish. So here, if the proprietor could show that an error in deciding in some of these preliminary questions, such, for instance, as if the award had stated that he had lost his right to 47 and part of 48 by adverse possession. Could he not have had it quashed ? and had he not also a right (if he chose to exercise it) to apply for that reason, or because some other preliminary question was wrongly decided, to have the award sent back ? Then, is it just to permit the silence of the Commissioners to deprive him of his right to those remedies ? In *Richards* v. *The South Wales Railway Co.*, 13 Jur. 1097, the verdict of the Jury under the Land Clauses Consolidation Act was as follows :—

	£
Value of land purchased - - - - -	305
Severance on 13½ acres - - - - -	157
Loss of water on 25 acres - - - - -	112
Severance of a road owing to crossing and expense incurred thereby - - - - - - -	450
	1,024

The Court held that the Jury had no right to give the 450*l.* for severance of the road, and that doing so was an excess of jurisdiction in a substantial matter injurious to the Company, and say that, "Where it appears that the Inferior Court has taken upon itself to "decide matters over which it had no jurisdiction, the statutory prohibition does not "apply, and the inherent jurisdiction is unrestrained;" nor need the excess of jurisdiction appear in every part of its proceedings, for it cannot give validity to one act in itself beyound the power of the Court, because it has done another it was competent to do. "The writ must therofore go, but as the proceeding was well commenced, and in "three particulars out of four, it was well conducted, and the fourth *can be certainly* "*and distinctly separated from the rest* owing to the verdict having been special, and in "writing, we should not think it necessary to quash the whole, if the claimant were "content to let it stand for the unobjectionable parts. This suggestion may, perhaps, "lead to arrangements and amendment of the verdict by consent, otherwise the rule "must be absolute." Suppose in this case the error had been neglecting to award compensation for loss of water, or something which the claimant had a clear right to be compensated for, would it not have been held equally bad, as against the Company on account of not exercising jurisdiction in a matter where its non-exercise was injurious to the claimant? In the present case, as in that, the Commissioners had jurisdiction over the main subject matters, and their proceedings were well commenced, but here the good cannot be separated from the bad, because a lump sum is given for compensation, and no one can tell how much it has been reduced in consequence of an erroneous decision on some of the preliminary questions they had to decide before fixing the exact amount. The principle on which the Court held itself bound to set aside or hold the awards bad in the above cases must, I think, govern this case. But before deciding that the whole awards must be quashed, the effect of the 32nd Sec. should be considered; it provides "that the Public Trustee when the sum so awarded shall have been paid into the "Treasury as aforesaid, shall (unless restrained by the Supreme Court or a Judge "thereof) after fourteen days' notice to the proprietor, execute a conveyance of the "Estate of such proprietor to the Commissioner of Public Lands, &c." Now what do these words, "unless restrained by the Supreme Court or a Judge thereof," mean? What power do they confer on the Court? and what state of circumstances is sufficient to invoke its exercise? Do they cut down or modify the stringent restrictive provisions of the 45th Section, so as to give the Court, notwithstanding those restrictions. some power to interfere in cases when the literal observance of them would permit consequences contrary to justice and equity to result from the Commissioners' proceedings? Or do they merely authorize the Court temporarily or perpetually to restrain the Public Trustee from conveying, in consequence of circumstances arising after the award made, or with which the Commissioners had nothing to do? If a power such as the first question implies be conferred, then the two sections are, in material points, repugnant to each other, but it is a rule in construction of Statutes, that each part of it is to be construed with reference to other parts, so that the whole may if possible stand. Now if we construe these words, "unless restrained by the Supreme Court or a Judge thereof," to imply merely an authority to restrain for causes similar to those in which a Court of Equity usually restrains between delivery of abstract and execution of conveyance, there will be ample subject matters for this part of the 32nd Sec. to operate upon, without being driven to the necessity of declaring either it or any part of the 45th Section invalid, for repugnancy to each other. For example, so long as the amount of compensation is sufficient to pay off incumbrancers they have nothing to do with the proceedings of the Commissioners, but if a less sum than the amount due to a mortgagee, be awarded a Court of Equity at his instance would restrain the Public Trustee from conveying, because the mortgagee not being notified, could not be injured by an award made behind his back. See *Martin* v. *London, Chatham and Dover Railway Co.*, Ch. Ap. L. R. 510, and a mistake in paying notes into the Treasury, and various other cases, where a Court of Equity would restrain the Public Trustee might be put, in all which cases it seems to me this clause would empower this Court, in a summary manner, to grant the same relief as a Court of Equity would have done. We must, therefore, exercise the power of this Court in the present case in the same manner as we would exercise it (when similarly restrained) over the proceedings of any other Inferior Court. It is said the Court may refuse to set aside the award though it be void. But I think it is clear, that where (even in ordinary submissions) the award is void and something may be done under it, the party who may be injured as a *right* to call on the Court to set it aside. Russel, on awards, 649, says, that if an award be altogether void and nothing can be done under it, the Court will not usually interfere to set it aside. "But there is an *exception* "*where something may be done under the award* which renders the interference of the "Court necessary. For instance, where the award *orders a verdict to be entered*, the

" Court will set it aside, since if the award be allowed to stand, the party would be entitled " to judgment, and might issue execution." So in the *Queen* v. *Justices West Riding*, 7 A. & Ell. 588, where it was contended that the order of Sessions being a nullity, therefore the Court would not set it aside. The Court say we were in doubt whether the order was not harmless, but we think, on further consideration, that what has been done is a grievance to the party applying. The effect of allowing these void awards to stand will be, that the Public Trustee may convey estates of very great value away from their owners. The collection of all arrears of rent would also remain indefinitely suspended, while the proprietors were engaged in law suits against the Government to get back their land; the compensation money remaining all the time locked up in the Treasury, of no use to any one. To decline to exercise our jusisdiction in such a case would, in my opinion, be contrary to all law, reason, and justice. I think, therefore, that these awards must be set aside,—first, because they do not show how they decided the several preliminary matters they had to consider before ascertaining the amount of compensation; secondly, for not deciding the question of quit rents, so as to protect the proprietor after being stripped of his land from suits in respect of its liability to those rents; thirdly, for not setting out in their award, or by reference to any particular plans or documents, any certain description of the lands claimed before them by the Commissioner of Public Lands under his notice to the proprietors, and adjudicated by them to be transferred to him, and in not showing for, or in respect of, what particular parcels of land the compensation, mentioned in the several awards, was respectively given. The setting aside of these awards may, I am well aware, cause much disappointment, as well as render useless the large expense attendant on the proceedings. But this, to use the words of Lord Denman, in *The Queen* v. *The Eastern Counties, R. W. C.*, 10 A. Ell, 565, " is a con- " sideration which certainly ought to induce great caution in assuming jurisdiction, but " cannot justify us in declining it where the law has lodged it with the Court. We " have no more right to refuse to any of the Queen's subjects the redress which we are " empowered to administer, than to enforce against them such powers as the constitution " has not confided to us." In Hodges, on R. W. 324, it is remarked that as laymen are frequently selected to be arbitrators and umpires, there cannot be any doubt that they are entitled to avail themselves of professional assistance in conducting the inquiry and preparing the award; and I must say it is very unfortunate that in such an important matter as this the Commissioners should not have been authorised to engage such assistance, at least, in drawing up their awards, a matter with which they could scarcely be supposed to have much acquaintance.

Imperial Act, ultra vires

The next objection is, that under the provisions of the British North American Act, the Island Legislature had not power to pass this Act.

By the 92d sect. of the Imperial Act, it is enacted that in each Province the Legislature may exclusively make laws in relation to matters coming within the classes of subjects next herein-after mentioned, " and the 13th class mentioned in this section is, property " and civil rights in the Province."

Mr. Hodgson contends that the power of making laws in relation to property, does not give the right of taking away the property of one person for the purpose of giving or selling it to another; that the power is restricted to the taking of private property for public uses only where a public necessity for so doing exists, and that the existence of such public necessity is a condition precedent to the right to exercise it, and that no such necessity existed with regard to the subject matters dealt with by this Act. The Attorney-General, on the other hand, contends that the Legislature are the judges whether such necessity exists, and therefore, have a right to pass any law they please. If the Provincial Legislature is restricted to subjects coming under what American jurists call the right of Eminent Domain, it seems to me that this Act, at least in some of its provisions, would be an excess of Legislative power. So far as the leasehold tenures are concerned, it might be said that when a man parts with his property for 100 or 900 years, reserving a small yearly rent, the transaction really is, that he gives away the land in consideration of a small annuity secured on it, a commutation of which, if *fairly made*, could work no appreciable injury to the lessor; and if from any cause, such tenures were found to operate injuriously to the public welfare, it might, perhaps, be argued that a public necessity existed which required to be met by their abolition. But, as to the necessity of argument regarding the residue, it must in the first place be observed that the preamble of the Act only says that it is desirable that the *leasehold* tenures should be converted into freehold. There is not a word about its being necessary to take property

which had been purchased on the faith of existing laws, and long enjoyed in the fancied security that in this Province it would be as safe as property has heretofore been considered to be in other parts of the British Dominions. There is no doubt that although the preamble of an Act is said to be the key to its intention, its grasp may, by the enacting clauses, be extended to subjects not within the preamble. But still, in considering the question of public necessity which was so much discussed on both sides at the Bar, we may look with much confidence at the preamble; and if we do, and apply the maxim, *expressio unius est exlusio alterius*, instead of finding in the Act evidence of necessity, the implication rather is, that the Legislature felt it could not say that there was any. But putting that aside, if, as contended for, the Imperial Act does act restrictively on the power of the Provincial Legislature, then it would be the duty of this Court, in the same way as it is the duty of Courts in the United States, on similar questions, to decide whether such a public emergency existed as would justify Legislative interference under the right of Eminent Domain. Now, to put a strong case, but one which might occur, suppose A. and B. had come to this Island two years ago, and that A. had purchased 1,000 acres of wild land, and B. had purchased 2,000 of cultivated land, that A. did not occupy his, but that B. was in actual use and occupation of his 2,000 acres. The Act authorizes the Government to take 500 acres from A. and 1,000 acres from B. There can be no doubt of this, the words are too plain to admit a doubt.

The first Sect. is, " the word Proprietor shall extend to and include any person " receiving or entitled to receive the rents, issues, and profits of any township lands in " this Island (exceeding 500 acres in the aggregate), whether such lands are leased or " unleased, occupied or unoccupied, cultivated or wilderness, provided that nothing " herein contained shall be construed to affect any proprietor, whose lands in his actual " use and occupation, and untenanted, do not exceed 1,000 acres." And what is the Government to do with the unleased lands when it gets them? Simply sell them to others. In every case that I am aware of, either English or American, the property was taken for the purpose of being used by or for the convenience or benefit of the public, or of such considerable numbers of persons, as with respect to some certain locality, might be called the public, and not for the purpose of being afterwards appropriated exclusively to the use of one or a limited number of such public, whether such exclusive appropria- " tion took place through sale, gift, or otherwise. Ch. Kent, Vol. 2, 340, says, it un- " doubtedly rests, as a general rule, in the wisdom of the Legislature to determine when " public uses require the assumption of private property, but if they should take it for a " purpose not of a public nature, as if the Legislature should take the property of A. and " give it to B., or if they should vacate a grant of property, or of a franchise, under the " pretext of some public use or service, such cases would be gross abuses of their discre- " tion and fraudulent attacks on private right, and the law would clearly be unconsti- " tutional and void." It must be remembered that no amount of compensation can condone the impropriety of taking private property when no such public necessity exists, for the right to take is founded on public necessity alone, but the right to compensation rests on very different grounds, in the words of Ch. Kent. " It is a necessary attendant " on the *due and constitutional* exercise of the power of the law, given to deprive an " individual of his property without his consent, and is founded in *natural* equity, and " is laid down by jurists as an acknowledged principle of *universal* law." Now, could any Court hold that any public necessity existed for giving the Government of this Island such a power over private property, in the case I have supposed, as this Act gives. When I put the case, the Attorney-General replied, that whatever the effect of the words might be it was not intended by the Legislature that the Act should apply to such a case. Perhaps it was not, it is possible that the policy stated in the preamble so exclusively occupied its attention, that it served as a veil to conceal the real effect of some of its enactments. It may be said I have put an extreme case, but *Lord Denman in Reg.* v. *Arkwright*, 13 Jur. 303, when supposing an equally strong case to test the construction of an Act, says, " that a case so extreme is not likely to happen, in fact is " no answer to the argument against the construction which makes it possible. Without " supposing any ill-intention in the Commissioners and scarcely any negligence, they " may be deceived, and at all events the rights of others ought not to be left unpro- " tected." So here, without supposing the Government would apply the powers of the Act to such a case, where was the necessity for subjecting the rights of all owners of property to such interference, besides, it must be recollected that when a constitutional question regarding the validity of an Act of this description is raised, the Court are bound to decide on what it finds within the four corners of the Act, not importing anything that is not there, and not excluding anything that is. The Imperial Act has bone and sinew, but like the dry bones of the valley, it has yet to be clothed by many a

judicial decision from all parts of the Dominion, tempered and corrected by the Supreme Tribunal, before its true form and features will become perfectly developed, and therefore every question concerning its construction should be carefully considered, and amongst the many questions that may be raised none, perhaps, will be more important than those concerning the distribution of Legislative power. Now it seems to me that if this Island had been a new country, or one, on its entry into the Dominion, possessed of no Legislative power, a grant of power to make laws in relation to property would be understood to apply to regulations respecting property still continuing vested in its owners, and would confer only a limited jurisdiction as contended for by Mr. Hodgson, a jurisdiction amply sufficient for securing to them the full enjoyment of it, for regulating the manner in which it should be held, transferred, or devolve, and at the same time of imposing such restraints on the use of it as the public good might require, and also the further power of depriving owners of their property for *public* uses, but for *public* uses only, when and only when some "great "public emergency, which could reasonably be met in no other way," rendered it necessary to do so, but would not confer that omnipotent sovereign power which acknowledges no restraint but its own discretion, and whose acts (unlike these of a body with limited power) can never be "*ultra vires*," and therefore cannot be questioned before any tribunal. But this Island had a constitution similar to that of the other B. N. A. Provinces when it entered the Confederacy, and the powers of its Legislature over property and civil rights were as sovereign as those of the British Parliament itself, save only where its enactments happened to conflict with the Imperial Statutes, or were repugnant to the established law of England, though this last restriction seems to be abolished or greatly modified by the Imperial Acts 26 & 27 Vict. c. 48 & 28, and 29 Vict. c. 63. The B. N. A. Act of 1864 does not abrogate these Provincial constitutions, but merely withdraws from them the power of making laws regarding certain matters enumerated in the 91st section, over which they previously had jurisdiction. But as to all matters not so withdrawn, the Provinces remain in —— of their "old "dominion," and retain their jurisdiction over them in the same plight as it previously existed, and therefore I think we cannot hold this Act to be "*Ultra Vires.*"

Stewart's Deeds to Children.

I must now turn to points applicable to the particular case of R. B. Stewart. His Counsel, while insisting on all these objections, states that he does not desire to have the award quashed, but only to have the injunction continued until legal money be paid to the Treasurer in his case; and secondly, that the Public Trustee be entirely restrained from including in his conveyance to the Commissioner of Public Lands certain parcels of land conveyed to his children. The facts, so far as I can gather them from the very loose and uncertain statements of his affidavit, are these, that before the case came before the Commissioners for hearing, he conveyed 1,499 acres of land on Lot 7, 500 of which were leased, and 999 unleased, to his son, James F. Stewart. That he also conveyed 4,000 acres on Lot 30 to his son, Robert Stewart, or to his sons. This would make 5,500 acres, but in the affidavit of Mr. Davies, the Plaintiff's Solicitor, he says he has conveyed 7,000 acres, but the affidavits are so confused that one cannot ascertain what the exact quantity is, and, what in my view of the case is more important, with the exception of the 500 acres of leased land conveyed to James F. Stewart, I cannot find how much of what he did convey was *leased*. I can, therefore, only state generally what in my opinion Mr. Stewart's right and power over his property was, between the service of the notice of intention to purchase and the hearing of his case, and in this point my opinion, and that of my learned brothers, is entirely different.

The notice of intention to purchase, in my opinion, does not, so far as any *provision in the Act is concerned* (except as regards the arrears of rent), in any way interfere with the proprietor's dominion over his property. The 49th Sec. enacts that, "after the "Commissioner of Public Lands shall have given notice to any proprietor under the "2nd Sec. of this Act, no such proprietor to whom any such notice shall have been "given, shall maintain any action at law for the recovery of more than the current year "and subsequent accruing rent due to him." There is not a word in the Act which prevents his selling, leasing or disposing of it. When the case comes before the Commissioners, proof of perception of the rents and profits by the proprietor named in the notice, or of his right to them, makes a *primâ facie* case giving the Commissioners jurisdiction to proceed, but if during the trial it appeared that the proprietor had sold or conveyed portions (not in trust for himself) but to actual settlers, and that they were then the *bonâ fide* owners, then (as to the portions so sold) the case would fall within

the third class of cases mentioned by Sir James Colville in his judgment in the *Bank of Australasia* v. *Willian*, and their jurisdiction for anything contained in the Act would, as to those parcels, be at end. But there is a well established rule of law, that agreements or deeds contravening the policy of enactments of the Legislature are void. "Thus contracts made by a trader, giving a preference to particular creditors, although "not forbidden by the letter of the enactment, violate the policy of the Bankrupt Laws, "the first object and policy of those laws being to make a rateable distribution of the "bankrupt's property amongst all his creditors." So deeds framed to avoid the Mortmain Acts, as in *Jefferies* v. *Alexander*, *H.L.*, 13 *J. J. Ch.* 9, and numberless cases might be cited where deeds and contracts have been held void for this reason. Thus Mr. Smith, speaking of contracts invalid on these grounds, says, "The Judges in con-"struing a particular law, look at the object and policy with which it was framed, and "the evil which it was apparently intended to remove; they use the policy of a parti-"cular law as a key to open its construction." Now, the policy of this Act declared in its preamble, as regards one of the subject matters with which it deals, is to convert the leasehold tenures into freeholds,—suppose then, that at any time between notice and hearing, the tenants had purchased from Mr. Stewart his reversion in their several farms, I think his deeds to them would have been valid, because there is nothing in the Statute prohibiting his selling to any one, and the sale to his tenants, instead of contravening the policy of the Act, would be carrying it into effect. But I think deeds of such reversion to a stranger would have to be looked on as tending to *defeat* the policy of the Act, inasmuch as if held valid, they would, as to the farms the reversion of which was so conveyed, destroy the jurisdiction of the Commissioners, and thereby prevent the leaseholds being converted into freeholds. With regard to unleased lands, it is difficult to say what the policy or object of this part of the Act is. It cannot be to prevent the creation of new leasehold tenures, because a single clause making it unlawful in future to grant leases of wild land, would have effectually prevented that. It can scarcely have been to prevent land being held up at high prices, and thus retarding the settlement of the country, because a tax on the anticipated profits arising from increasing value would have been a sufficient check to a system of that kind without violating sound principles of jurisprudence. Besides, it is well known that persons with rising families acquire and hold often more than 600 or 700 acres of land, so that they may have farms for their children when they come of age. It can scarcely be supposed that the Legislature desired to prevent the farmers of this Island from exercising a parental providence so commendable for the welfare of their children. Then it seems that the Legislature, for some reason or other which, though we cannot discern, we must of course suppose to be a very sound and good one, thought it desirable that the Government should be empowered to deprive every person in this Island who owned over 300 acres of land of the excess beyond that, and that it should be vested in the Government to resell to whosoever would buy it. True, by the provisions of the Land Purchase Act, under which the Government sell, it can only convey 300 acres to one person, no doubt a very wise and necessary precaution to prevent jobbery by officials, or in favour of political friends or supporters, but evidently not intended to prevent one person acquiring and holding any quantity he pleases; because if A and 20 others on the same day purchase 300 acres each, there is nothing to prevent A the next day purchasing from the other 20 and thus becoming the owner of 6,000. The policy of the Act was, therefore, only to get the land to sell, and after the sixty days for initiating proceedings against property had expired, the law returned to its normal condition and every one had, as before, a right to hold any quantity he pleased. Now, if a number of persons between the notice and hearing had purchased from Mr. Stewart (not to hold in trust for him) but as *bonâ fide* purchasers for value with intention of settling on it, or keeping it for the use of themselves or their families; even if some of the Lots exceeded 500 acres, how would that have been against the policy of the Act? Mr. Stewart would only be doing with the land what the Government proposed to do when they acquired it. If the Legislature intended to prevent all sales after notice of intention to take, it should have expressly prohibited it, as it did the collection of rents, which last itself according to the maxim, "*Exceptio* "*probat regulum de rebus non Exceptis*," shows that such sales were not intended to be prohibited. Besides, every Act that takes away rights or property acquired under existing laws is, Mr. Broom observes, opposed to sound principles of jurisprudence and must be construed strictly, *i.e.*, shall not be extended by implication to anything which its express words may not comprehend. And in *Sparrow* v. *Oxford R. W. Co.*, 16 Jur. 707, the Lord Chancellor says: "If this be a *casus omissus*, I think it ought to be "construed in a way most favourable to those who are seeking to defend their property "from invasion." Now, if he might sell to others, why should he not give farms to his

sons, who we all know as a fact, have been brought up to farming avocations? I do not mean to say that if all or a large portion had been conveyed, evidently to evade the Act and oust the Commissioners' jurisdiction, it would have been valid—that is quite another question. But there is nothing to lead me to believe such is the case with regard to these wilderness lands conveyed to his children; and looking at the matter in a plain, common sense way, does it not seem very unjust when you are arbitrarily taking 80,000 acres of land from a man on the plea that you want to have the selling of it, that you should prevent him from allotting farms to his children, and thus perhaps compel them to buy back from you farms which, according to the statements he had promised and they had always expected, he would give them? Can I believe the Legislature ever intended to do so hard and unjust a thing? I think, therefore, that the deed of 999 acres of unleased land, or some part of it on Lot 7, to his son, J. F. Stewart, is valid, and that the Commissioners had no jurisdiction over the land conveyed by it. With respect to the 500 acres of leased land on Lot 7, conveyed to J. F. Stewart, as I have already said, I think it void as contravening the policy of the Act; but Mr. Stewart had a right to retain 500 acres of leased or unleased land. In my opinion it was only against the excess that the Commissioners could proceed, and, therefore, if this 500 acres of leased land be the 500 he elects to retain, of course the deed is good for that also. With respect to the other lands the facts must be made more clear before I can give any opinion respecting them, or the actual quantity J. F. Stewart can retain. It was said the Commissioner of Public Lands cannot after notice retract, and the case was likened to R. W. Companies, where it is said the notice to treat raises the relation of vendor and vendee. But it is a mistake to say that the notice to treat by Railway Companies creates the relation of vendor and vendee; the authorities, though somewhat conflicting, do not warrant the proposition. In 1 Readfield on Railways, 358, it is said, "But it seems to be considered that *mere notice* by a Railway Company of an "intention to take the land may be withdrawn, if done before the Company have taken "possession of the land, or done anything in pursuance of the notice." In *King* v. *Wycomb R. W. Co.*, Sir J. Romilly, M. R., says, "With respect to one messuage, I am "of opinion that they were entitled to abandon the notice which they gave to take it. "A Railway Company is entitled to abandon at any time before they actually take "possession of the land comprised therein." Dart. V. & P., 195, 4 E. It is laid down that "notice given by a Railway Company or other Public Company of their intention "to exercise a power of compulsorily taking land constitutes a contract binding on the "*Company* to the extent of fixing what land is to be taken, and cannot be withdrawn "by the Company without the consent of the owner for the sale of his land. *But the "mere service of the notice does not constitute a contract by the landowner for the sale "of his land;* nor is there, strictly speaking, any contract between the parties until they "have come to some definite arrangement as to terms, or until the value of the land has "been ascertained by arbitrators or by a jury." In *Haynes* v. *Haynes*, 30 L. J., 570, where all the cases were considered by V.-C. Kindersley, he says,—It was contended that the notice to treat formed a contract, and having attached the name of a contract to it, it was a short and easy step to the conclusion that there was a conversion. It was justly said that if A. and B. entered into a contract for the sale and purchase of land, the Court of Chancery would grant specific performance of it regarding the subject of the contract as the property of the purchaser, and the vendor as a trustee for him, and only entitled to the purchase money; in other words, that there was a conversion. The question, therefore, is, how far the Plaintiffs, the residuary legatees, are justified in that contention, and that is the only question in which they have any concern. What is the effect, then, of the notice as to the land? Has the landowner, after having done no act, entered into a contract for the sale of his land? What is a contract? According to Sir William Blackstone, a contract is an agreement, on sufficient consideration, to do or not a particular act; and therefore, according to this definition, an agreement, in order to constitute a contract, must necessarily consist of two things, a will, and an act whereby the will is communicated to the other party, who engage to carry it into effect; and not till then is the agreement complete. This is not a theoretical principle, but one of universal law, and of the law of England in particular; that is a proposition that will not be disputed. The Legislature even cannot coerce a man's will; it cannot compel him to be willing; he might be compelled to do a thing against his will, but as long as he is unwilling, his will remains the same. To apply this:—A company, being invested by the Legislature with power to take the lands of others, serve a notice to treat upon a landowner, and call upon him to state what his interest is, and what he claims as compensation, and so far as the Company had a will they notified it to the landowner; and assuming that such a notice was an agreement *by the Company*, how was it as to the

landowner? Has he contracted? No one can say what his will was, because no one could read his thoughts; but if you cannot, you must take him to be unwilling. He has not communicated his will to the Company; there is, therefore, a total absence of both requisites to form a contract on his part. How can it be said that he has contracted? He might be obliged, and therefore compelled, to sell his land, but it is against reason and law to say that he has contracted; and if it is said that a contract must be implied, it must be understood from some conduct of his own. But it never was heard that an implication of conduct could be raised from the conduct of another party, not the landowner's agent. Having regard, then, to the essential nature of a contract, it is impossible to hold that a simple notice to treat constitutes a contract as to the landowner. In the *Metrop. R. W. C.* v. *Woodhouse*, 34 L. J., 297, an injunction was granted to prevent the landowner from selling land comprised in the notice to treat. In *Binney* v. *Hammersmith & City R. W. Co.*, 9 Jur., N. S., cited by Rodford, 358, the tenant, coming into possession of land *after notice to treat* and before proceedings taken, was held entitled to notice so as to make him a party. In Loyd on Compensations, 47, it is said Commissioners appointed under a public Act to do, on behalf of the Executive Government, certain things for the benefit of the public, are not liable in the same manner as a private Company are held to be in consideration of the statute granted to them. In *Reg.* v. *Commissioners of Woods and Forests*, the Defendants, who were authorised to purchase lands forming a Royal Park, gave notice under the provisions of the Act, that certain lands would be required, it was held to be a good return to a mandamus requiring the Commissioners to summon a jury to assess the value of the lands, to show that the undertaking had been abandoned for the want of funds. Parke Barron says, "If this were a Railway case, or other private company, no doubt the "return would be insufficient, because notice having been given that the lands were "required, and a claim sent in accordingly, a contract is entered into, and the parties "stand in the relation of vendor and purchaser; but a private company, to whom an "Act is granted for their profit, differs materially from Commissioners appointed under "a public Act to do on behalf of the Executive Government certain things for the "benefit of the public." In *Richmond* v. *North R. W.*, 5 L. Rep., 358, the M. R. says:—It is quite settled that a notice by the Railway Company to take land does not by itself create a contract, and that it does not alter the character of the property until some further Act has been done which has not taken place in the present case. From the authorities it appears that notice to take does not constitute the relation of vendor and vendee. But at the same time some of the consequences flowing from that relation do flow from a notice to treat. The *particular* lands become fixed; neither party can get rid of the obligation—the one to take and the other to give up. But to what description of cases do these authorities apply? Are they decided on statutes having the same provisions, and intended to accomplish ends similar to those intended to be accomplished by the statute we are considering? Instead of that being the case, the object of the statutes in which those cases arose are as dissimilar from this as it is possible to be. Both in the railway case and in that against the Commissioners of Woods and Forests the particular land described in the notice to treat was taken *to be specifically applied to a particular use*, viz., to some *work* of a public nature, which work would be defeated or delayed if the owner were allowed to transfer the land, and therefore not because the relation of vendor and purchaser existed, but because, as observed by the V.-C. in *Metrop. R. W. Co.* v. *Woodhouse*, he would be *contravening the law*, he was restrained from doing so. Here there is no particular piece of land mentioned in the notice, nor until the hearing. Could it be known what particular land the Government were to get or claimed, and the reducing the quantity by sales to settlers, would not defeat or delay any public work; and if, as I have already shown, the sales were such as would not contravene the object and policy of the Act, then "*Cessante ratione legis cessat* "*ipsa lex*," and the Railway cases do not apply and cannot govern this case. And if the Government had, as in the *Metrop.* v. *Woodhouse*, found Stewart selling to actual settlers, and had applied for an injunction to restrain him, the answer would have been, the relation of vendor and purchaser does not exist, the owner's title is not therefore yet disturbed. Such sales only tend to settle the country, they do not contravene the object of the law; true when you get the Estate you will have less to sell, but you will have also less to pay for; they work the Government no injury and, therefore, no injunction can be granted. The truth is, this statute is one entirely "sui generis," and it must therefore be construed by the application of general principles of construction and law, and the labouring to compare it with what it has no resemblance to, is, in my opinion, much more likely to lead to error than help to a correct conclusion. If the notice in this case created the relation of vendor and purchaser the property would be converted. And in case of the

proprietor's death the day after notice, the property would go, not to his heirs, but to his personal representatives. Could the Act intend that? And if it did not, then it is only acts which tend to defeat the objects or policy of the Act that the proprietor is restrained from doing. It is said that though a man who holds only 500 acres of leased or unleased land is not within the Act, yet if he hold over that quantity the Act not only operates on the excess, but that he loses all. The words of the 1st Sec. are: "proprietor shall be construed to include and extend to any person receiving or entitled "to receive rents of lands exceeding 500 acres in the aggregate." Now surely if I say you shall not hold over 500 acres, the plain and necessary implication is that you may hold 500. But what is the antecedent of the words 500 acres? It is the lands exceeding, *i. e.*, lands in excess of that 500 acres. But put it in another way, "proprietor" shall mean every person receiving rents of lands exceeding 500 acres in the aggregate. Now what lands? It seems to me it can mean nothing else but the lands which he holds in excess of the quantity of 500 acres, which by necessary implication the Legislature says every man may hold. And then it follows, that it is only with *regard to this excess* that the compulsory clauses of the Act were intended to operate. But there is a well known rule of construction that, "where the language admits of two constructions, "according to one of which the enactment would be unjust, absurd, or mischievous, and "according to the other it would be reasonable and just, it is obvious that the latter "must be adopted as that which the Legislature intended." Now put this case:— Suppose that 20 men, intending to emigrate to this Island, had come here last year, and contemplating the future settlement of their families around them, and informed of the comparatively small quantity of unoccupied land in this Island, and of its fast decreasing quantity, had prudently secured a larger tract than they would respectively require while their families were growing up, and that ten of them had purchased 500 acres each, and the other ten 525 acres each, what would be the effect of the construction contended for? Why when they arrived with their families, the ten with the 500 acres each would find their lands secure and safe, while the ten who held 525 each would find themselves deprived, not only of the 25 acres excess, but of the whole 525, and thus left without an acre to settle upon. Is it probable that any Legislative body in the world could have intended to enact a law producing such absurd and ridiculous results? In *Boon* v. *Howard*, 8 L. Rep., C. P., 308, where a question arose on the construction of the representation of the Peoples Act of 1867, the Court were equally divided. But there is a passage in the judgment of Mr. Justice Keating very applicable to the present point; he says: "I feel the full force of what has been said by my brother Brett, that if the "Legislature says a thing shall be so, we are bound to give effect to it. But I hold it "to be an essential canon of construction, that if the words are susceptible of a reason-"able and also of an unreasonable construction, the former construction must prevail. "I cannot see that any violence will be done by reading the words of S. 61, 'and "'separately rated to the relief of the poor' (which, it is conceded, is an inapt mode of "expression) as if they were, 'and the occupier of which is separately rated to the "'relief of the poor in respect of such separate occupation;'" and in *Perry* v. *Skinner*, 2 M. & W., B. Parke says: "If the construction contended for was considered the "right construction it would lead to the *manifest injustice* of a party who might have "put himself to great expense in making machines and engines—the subject of the grant "of a patent, *on the faith of that patent being void*, being made a wrong-doer by "relation. That is an effect the law will not give to any Act of Parliament unless the "words are manifest and plain. *We must engraft therefore, upon the words of the Act* "in this case, for the purpose of its construction, and read it as though it had been, "shall be deemed and taken as part of the said letters patent, *from henceforth*, so as "not to make the defendant a wrong doer." Now here, if it were necessary to avoid attributing such an absurd intention to the Legislature (which I think it is not, as the words in my opinion are plain enough in themselves) what violence will be done by reading the words exceeding 500 acres in the aggregate, as if they were rents, issues, and profits of the excess of any lands he may hold over and above 500 acres in the aggregate in his own right, &c. It is said the Legislature must draw a line somewhere. Well, does not this construction draw a sharp line enough? only it draws it between the 500 and the excess, instead of the absurdity of drawing it between the owner and any land at all; and therefore, unless this Court takes upon itself to do what the Statute has not done, viz.: to make one rule for the owner of 525 acres and a different rule for the owner of 60,000 acres. Mr. Stewart, in my judgment, is clearly entitled to retain 500 acres of leased or unleased land wherever he pleases.

Dominion Notes.

The next question is, that when the Treasurer gave his certificate the money had really not been paid in, the fact being that the Government, under a mistake of the law, supposed that Dominion notes were a legal tender here, and the amounts were paid to the Treasurer in those notes; the Counsel for the Government admit that it was a mistake, and this is one of the grounds on which an injunction was granted. The 30th sec. enacts, "that *at* the expiration of 30 days from the publication of the award, the Government "shall pay the *amount awarded* into the Colonial Treasury," "*to the credit of the suit* "*or proceedings in which such award shall have been made.*" The 31st sec., that the Treasurer shall immediately after such payment deliver a notice to the Prothonotary that the amount awarded has been paid in, and that notice is to be in the form Schedule (D.) which is, "I certify that the sum of ————has been placed to the credit "of the account opened in the above matter, which said amount will be paid to such "party or parties as the Supreme Court shall, by rule in the above matter, order and "direct." And the 32nd sec. provides: that when the sum is so paid in, the Public Trustee shall, before conveyance, give 14 days notice of his intention to convey. It was contended that the Act, requiring the money to be paid at the expiration of sixty days, is imperative, and that by the error the whole proceedings fall to the ground; I incline to think this is not the case; but at present it is unnecessary to decide it. When the money is paid in, new notices can be given, and then the objection can be taken and argued. At present the notices are void, and just as if they never had been given; and we can only say that as yet no money has been paid in. But if the Act don't make payment at the end of sixty days imperative, yet it must mean very promptly, and it would be most unjust to allow the Government, by an indefinite delay in paying in the money, to keep the proprietor out of the use of it, while at the same time it deprives him of his right to arrears of rent. The Act itself works great injustice to those who, like Mr. Stewart, hold very large quantities of unleased wild land, for it prevents the recovery of all except the rents current since the notice of intention to take; but that, at the most only represents the income from the leased lands, but if compensation has been justly made, a large part of the $76,500 must represent the unleased wild land. No interest is allowed by Government to the proprietor on any part of the sum awarded, from the time of the award until he receives his money; and yet in large wilderness estates, the receipts from sales of wood and stumpage must have been considerable. But in this point we are acting under the injunction power given by the 32nd section. If I am correct in my construction of that section, we must exercise the same power as equity would do in like circumstances; in using that power, equity lays down no rule which shall limit its power or discretion in particular cases; it takes care to mould its decrees so as to meet the ends of substantial justice; it is very careful how it interferes, merely on account of some mere non-observance or disregard of a strict legal right. In such cases, while it acknowledges the jurisdiction, it declines to exercise it further than is necessary to prevent real injury being done; and in this case, if the parties don't come to ome amicable arrangement, and we can finally mould our decree so as to prevent Mr. Stewart sustaining actual loss, I should be very unwilling to permit this mere mistake to upset the proceedings if they were otherwise valid. But, at the same time, we must take care not to add to injustice by allowing such indefinite delay. I think, therefore, that the order in Mr. Stewart's case should be that the injunction should be continued for a very short time, and if at the expiration of that time the Treasurer shall not certify that $76,500 in lawful gold coin has been paid in to the Court in this case, that then Mr. Stewart may move to have the injunction made perpetual.

With regard to Miss Sulivan, I am satisfied that the quit rent question was withdrawn, but the Boundary question is as fatal to her case as to the other.

Future Awards.

As I understand there is a large number of awards not yet made, I will, therefore, before closing briefly state some particulars which I think the awards, to be valid, must contain. I think there should be a distinct finding that the breach of conditions in the original grants were waived, or that they were not; and if not, whether any deduction (I don't say that it need state how much) was made on that account, and the same with regard to quit-rents. I think it should also, by reference to schedule or otherwise, show the names of each person whom they hold has acquired a title by possession and the quantity and particular parcel he has so acquired by bounds. I think it should also

show the names and quantity held by squatters, who have held for less than 20 years, and whether anything (I don't say how much) has been deducted on their account. There should also be a schedule showing the amount of arrears due from each tenant and how much of these arrears has been allowed to the proprietor in each case. I think this last necessary. There are two lines in the 20th sec. which I think have been very much overlooked. They are these, "*and the facts which they may require to ascertain in "order to carry this Act into effect.*" The meaning of these I take to be, is facts which it is their duty to ascertain in order to give full effect to this Act. This goes far beyond what they themselves have to perform; it points to all that has to be afterwards done by others to carry out what they have begun. To what the Public Trustee has to do, and to what this Court has to do in making distribution, I see it stated that in our case the arrears are assigned to Cardinal Manning. If the award finds a lump sum, and the Cardinal's claim comes in to participate in the distribution, how could we ascertain how much of the lump sum was awarded in respect of the land, and how much in respect of arrears of rent? We could make no distribution in such a case, and the same thing may happen in other cases, where arrears are due to a deceased proprietor, and the present proprietor is not his personal representative; we would be compelled to hold the award void in such case: because the Commissioners had not made it so that the Court could "*carry it into effect.*"

Whatever may be thought of the character of this Act, I think it very unfortunate that such important and expensive proceedings should be rendered nugatory for want of proper care in conducting them, and I have made these last observations in the hope that they may assist in preventing these yet to be made from running on the rocks on which their predecessors have suffered shipwreck.

I have only stated some matters which at present strike me as essential to the validity of the award; there may be many other things which circumstances may render necessary, but the direction that the Commissioners are to do and find every thing necessary *to carry the Act into effect*, if carefully borne in mind, will enable any draughtsman to avoid the omission of anything that is necessary.

Mr. Justice Hensley.—In giving my decision upon the present occasion, I shall follow the course pursued by the Chief Justice, in alluding only in the first instance to the estate of R. B. Stewart (the award in respect of which is not sought to be set aside), which involves two points only, which, although taken in the two other cases of the estate of Charlotte Antonia Sulivan and the Hon. Spencer Cecil Brabazon Ponsonby Fane, may not require to be decided upon in them, in arriving at a judgment. The application in this case of R. B. Stewart is simply for the purpose of restraining the Public Trustee from conveying upon two grounds: (1.) That the Public Trustee has included in his notice, given under the 32d section of "The Land Purchase Act, 1875," to Mr. Stewart of his intention to convey his estate more land than belonged to Mr. Stewart, or more than under the circumstances of the case as detailed in several affidavits filed, the said Public Trustee had a right to convey to the Commissioner of Public Lands as belonging to the estate, under the provisions of the Act in question. (2nd.) Because the money paid by the Government into the Colonial Treasury to the credit of this estate, under the 30th section of the Act, as certified to by the Colonial Treasurer under the 31st section, was not so paid in legal tender money, and therefore, in fact, has never yet been legally paid in. As regards the first ground this again resolves itself into three divisions: 1st, Lands *bonâ fide* conveyed by Mr. Stewart before the original initiatory notice, given to him under the 2nd section of "The Land Purchase Act, 1875," by the Commissioner of Public Lands, to the effect that the Government of this Province intended to purchase his Township Lands under its provisions. On this division I may at once state that it appears to me no difference of opinion can exist, and that of course the Public Trustee's deed must not include any such lands as those just described. The description of the lands to which this division relates, can be settled on reference to the affidavits, and need not here be further referred to. (2nd.) Excess in the statement in Trustee's notice of the actual area of the land to which Mr. Stewart was entitled. This, involving no attempt to except any particular farm or piece of land but merely to correct an over estimate of area (which, from the affidavits filed on behalf of the Public Trustee, would seem to have arisen from his having estimated each Township in accordance with the original grants to contain 20,000 acres, whereas the actual area in some cases, according to the boundaries, has turned out to be less) involves no legal point requiring consideration; and being simply a matter of detail, can also be settled in accordance with the facts ascertainable on reference to the affidavits. (3rd.) Lands conveyed or attempted to be conveyed by Mr. Stewart to several of his

children, to the extent in the whole of about 1,000 acres of leased, and 3,000 acres of wilderness land, after the notice of the intention of the Government to purchase his Township lands, under the 2nd section already referred to, had been given to him. This latter division raises very important questions and requires careful consideration. The first question is, whether the notice to purchase when served binds the proprietor's lands, and prevents his afterwards disposing of them or dealing with them himself? and I am of opinion that it does. It is manifest that if any other doctrine should be entertained, the objects of the Act could not be carried out, or might at any time be defeated by the acts of the proprietor to whose estate the proceedings relate. If he could, at any time pending the investigation by alienation, pass the title to another, the powers of compulsory purchase contemplated by the Statute could never be carried out to any practical conclusion. In fact, it would reduce the Act to the position of a measure which, although it had declared objects, had no vital force, and had not provided or contemplated providing any machinery to attain them. It was, however, argued on behalf of the Government, that this notice was binding on the Proprietor; first, in the same way as in England, somewhat similar notices have been held to be binding on the land-owner whose lands have been required, and have been authorised to be taken by Railway or other Companies, under the general statutes empowering them to acquire them. Many of these statutes contain no express enactment that the lands required shall be bound by the notice, but they empower the Companies to acquire by valuation and compulsory sale the land which they need, and regulate the modes and proceedings for the purpose, but the Court hold that it is a necessary incident in the case to enable the objects of the Act to be carried out, that the land indicated in the notice shall be held bound by it, and not afterwards be disposed of by the land-owner. In some cases the Courts have held that the service of the notice at once places the Company and the proprietor in the position of vendor and purchaser, in others the doctrine has not been carried so far, but in all, as it appears to me, it has been held that whether the position of vendor and purchaser is established or not, yet still the lands are fixed and bound in the hands of the proprietor until the objects of the Act have been secured. A distinction was attempted to be made by the Counsel for Mr. Stewart between a case where a Railway or other Company was concerned, and where a Public Officer was concerned, because it was argued that the Company having once given a notice to the proprietor could not countermand it or draw back, but were compelled to go on and complete the purchase of the land referred to in the notice, and could not plead in excuse deficiency in funds, and therefore, the position of vendor and purchaser might well be held to exist, but that a public officer, having only a limited amount of funds under his control (as in this case it was argued he had only $800,000) might draw back and refuse to complete the purchase, and that therefore the Proprietor must be held to be equally free, and his land not bound until the final conclusion of the proceedings and the acceptance of the money awarded to him. In support of both these views of the matter a large number of cases and authorities were cited upon both sides, and I will now proceed to review those which appear to me to be the leading decisions having the most bearing upon the points in dispute. In the case of *Haynes* v. *Haynes*, 30 L. J., C. 578, it was held that the notice was binding and prevented the proprietor afterwards disposing of his land, yet it also was held in this case, that the parties only in a qualified sense occupied the position of vendor and purchaser, with only some of the incidents of such a position; one incident being wanting that it did not operate (the question coming up between the devisee of the real estate in question, and the residuary devisee of the personal) as an immediate conversion of the real estate into personalty, so as to give as personal estate to the residuary legatee the compensation for the land taken, but that it belonged to the devisee of the realty, as any other conclusion would, free of all action on the part of the land-owner, have been unjust and inequitable. In this case Vice-Chancellor Kindersley, in giving judgment, says, " I consider that a notice to treat constitutes the relation of vendor and purchaser *to a* " *certain extent and for certain purposes*, and some of the consequences following from " an actual contract also follow from the notice to treat. *The particular lands are fixed*, " *neither party can get rid of the obligation, the one to take and the other to give up*, " but to no further extent is it a contract on the part of the land-owner." In the case of the *Metropolitan Railway* v. *Woodhouse*. 34 L. J., Chancery 297, a notice to treat had been served upon the land-owner who afterwards attempted to sell it but had been prevented from so doing by an injunction obtained on behalf of the Company, and Woodhouse's Counsel in arguing for a dissolution of the injunction cited, *as in his favour*, the case of *Haynes* v. *Haynes*, to which I have just alluded, but the Judge, V. C. Stewart, in giving judgment, said, " I think the authority, *Haynes* v. *Haynes*, cited, *is decisive* " *of the question.* Vice-Chancellor Kindersley, in the case referred to, although he

" makes use of some expressions to the effect that a notice to treat does not constitute a " contract in the strict sense of the law, yet says, *that after service of notice to treat,* " *neither party can get rid of the obligation, the one to take and the other to give up the* " *lands specified in the notice,* according to these views the defendant (in this case) is " contravening the law of the land, he cannot, as the Vice-Chancellor says get rid of the " obligation to give up to the Company the lands comprised in the notice to treat, " &c.," and the injunction was continued. The case of the *Queen* v. *the Commissioners of Her Majesty's Woods and Forests,* 19 L. J., B. 497, was, however, cited to show that in the case of a Public Officer, with only limited funds at his disposal, he might after service of notice to treat and other subsequent proceedings still draw back for want of funds, and it was argued that in such a case (which the present one was intended to be) the position of vendor and purchaser could not in any case exist, or any of its incidents, and that therefore the obligation on the owner of the land sought to be purchased could not be held to exist. But on examination it will be found that the decision in this case does not establish at all the latter principle, but that although the Judge held that a Public Officer with limited funds at his disposal, might draw back from completing the purchase after notice to treat given, *yet until he had done so the obligation on the proprietor not to part with his land existed.* Judge Patterson laid down the law thus : " If " this were the case of a Railway or private Company, no doubt the return would be in- " sufficient, because notice having been given that the lands were required and a claim " sent in accordingly, a contract is entered into and the parties stand in the relation of " vendor and purchaser. If the Company had not the means of paying for the land they " should not have given the notice to the owner. But a private Company, to whom an " Act is granted for their profit, differs materially from Commissioners appointed under " a public Act to do, on behalf of the Executive Government, certain things for the " benefit of the public, and the principle that imposes liabilities upon a private Company, " as arising in consideration of the statute granted to them, has no application to the " case of Public Commissioners." And he held that the latter were not bound to complete the purchase, but yet, that the land was bound by the notice. His words on this point are thus reported, " It has been contended that the Proprietor suffers a hardship " by reason of the notice, *inasmuch as his property is rendered unsaleable and unim-* " *provable thereby,* but these results arise in fact from the passing of the statute and not " from the giving of the notice. The statute places the land at the option of the Commis- " sioners, the title is at once affected thereby, and the motive for improvement taken away. " No material addition to these inconveniences arises from the Commissioners opening a " treaty for the purchase of the land so placed at their option by giving the notice, &c."

On a careful review of these and other authorities, cited at the argument, I consider that in this case, upon the service of the notice upon Mr. Stewart *an obligation was imposed upon him to give up his estate to the Commissioner of Public Lands which he could not get rid of by any subsequent alienation or disposition ;* that to hold any other doctrine would be contrary to reason and subversive of the statute, and so defeat and render utterly unattainable its declared objects. But, then again, it is argued that inside of all these decisions, and their reason and objects, a special right ought to be declared to belong to, or be retained by, Mr. Stewart, in view of the declared policy and objects of the Land Purchase Act, to the extent of retaining or exercising acts of ownership over 500 acres of leasehold land to be selected by him, and over 1,000 acres of wilderness land to be actually in his occupation, because it is said that the Act does not extend to the case of persons " receiving or entitled to receive the rents, issues, or profits of any " Township lands (not exceeding 500 acres in the aggregate) or to any proprietor whose " lands, in his actual use and occupation, and untenanted, do not exceed 1,000 acres." But what is really the policy of the Act on both the points of leasehold and unleased land ? The policy as regards leasehold, is unreservedly declared in it to be based upon its being desirable " to convert leasehold tenures into freehold estates, upon terms just " and equitable to the tenants as well as to the proprietors." This is only a new declaration of the same policy which was in 1853 by statute 16 Vict. cap. 18 (yet unrepealed, and which may for brevity be called The Land Purchase Act, 1853), set forth as the avowed policy of the Legislature at the time in passing that Act, which remains yet the law of the land, and which, being referred to in the present Land Purchase Act, 1875, and the land to be acquired under the latter, having to be held under the provisions contained in " The Land Purchase Act, 1853," may well be also considered in arriving at a conclusion as to the objects, intentions, and policy of the Act now under consideration. The Land Purchase Act, 1853, in its preamble, also declares that one of its objects is " to enable the tenantry to convert their leasehold tenures into freehold " estates." Would the allowing Mr. Stewart, the owner of a much larger estate, to

to retain 500 acres of rent paying land be in accordance with that policy?—I cannot see that it would. Would it be in accordance with it to allow a proprietor invidiously to single out and keep back from the benefits expected to be derived from the conversion of their leaseholds into freeholds, some five or six particular farms or tenants? I fail to see that it would. On the contrary, to allow of such a reservation would be to recognise *pro tanto* a defeat of the objects of the statute, and as it is to be supposed that the Commissioners allowed compensation for the whole, there can be no just, as well as no legal grounds, it appears to me, for putting the construction contended for on this branch of the Act. The declaration that the Act was not to extend to persons receiving the rents of Township lands not exceeding 500 acres in the aggregate, was, as I view, inserted merely to guard the Government from being involved in innumerable proceedings against small holders, and incurring inadequate expense and loss of time in so doing, but by no means to give a right to large proprietors invidiously to select out and retain a few tenants from participating in the objects of the Act. It seems, however, that Mr. Stewart has lands not exceeding 1,000 acres (constituting his homestead at Strathgartney) *in his actual use and occupation, and untenanted* (except by himself), and this, I think, it would be quite consistent with the policy of the Act to allow him to retain. The present Land Purchase Act, 1875, grasps within its objects cultivated leased lands, and also, unoccupied or untenanted and wilderness land, although it has no precise declaration of policy with respect to the latter contained in it. But the Land Purchase Act, 1853, declares that it would conduce to the prosperity of the Island if wilderness and unoccupied lands were rendered more easily attainable for settlers, than at present is the case. That object and policy, it appears to me, would be well answered by holding that the proprietor himself, in actual personal occupation, being a settler in the fullest sense of the word, is entitled to retain for his own use this his farm and homestead. It would, it seems to me, be harsh to put any other construction upon this point, or to hold that the Legislature, without declaring it in express terms, intended to oust a man from his homestead and family residence. Therefore, I think (and the Government appear to concede the point) that Mr. Stewart is entitled to retain his estate at Strathgartney to the extent of 1,000 acres, if it amounts to that, in his own occupation, untenanted; but I hold as invalid all and every disposition or conveyance of any other part of his estate, made or attempted to be made by him, since the notice of the Government's intention to purchase the estate was served upon him. The 2nd objection—that the money paid into the Treasury by the Government, under the 30th section of the Act, ought to have been, but was not so paid in in legal tender money, has already been alluded to by the Chief Justice. It was conceded on the argument, that the sum so paid in was not in legal tender money. At the first hearing of the case I was strongly inclined to the opinion that this question had been raised prematurely, and that if the Government had placed in the Treasurer's hands the amount in such a shape as to enable him, in his opinion, safely to certify that he had the necessary funds to the credit of the estate, that the matter should remain so until the final day of payment to the proprietor arrived. For, until the proprietor had proved himself entitled to the satisfaction of the Supreme Court, to receive the sum awarded, and receive its certificate, he was not in a position to demand payment from the Treasurer; *non constat;* but that some other party as a mortgagor or incumbrancer might be entitled to receive the payment; and should the question respecting the money as a legal tender be allowed to be raised by one whose right to payment had not been tested and might never arrive? There can be no doubt, however, that any party who ultimately obtains the certificate of the Court will, if he elect, be entitled to demand payment in legal tender money, and therefore, as to some extent this point may only after all involve a matter of time, as to when legal money will have to be found, I shall not refuse to concur in making the order in this branch of the case, that before further proceedings for conveyance be taken by the Public Trustee, it shall be certified by the Treasurer that he has the sum awarded, in his hands, to the credit of this estate, in legal tender money of this Province.

Mr. Justice Hensley delivered an unwritten judgment in the cases of Miss Sullivan and Ponsonby Fane, concurring with the Chief Justice and Mr. Justice Peters.

APPENDIX.

Land Purchase Act, 1875.

(Reserved for Governor-General's assent, 27th April 1875. Proclamation ssued by Lieutenant-Governor, 30th June 1875, declaring that the Administrator of the Government of Canada in Council had assented to this Act on 15th June 1875.)

Preamble.

Whereas the Government of Prince Edward Island is entitled to receive from the Government of the Dominion of Canada the sum of Eight Hundred Thousand Dollars, under the terms on which this Island became confederated with Canada, for the purpose of enabling the Government of this Province to purchase the Township Lands held by the Proprietors in this Island.

And whereas it is very desirable to convert the Leasehold tenures into Freehold Estates upon terms just and equitable to the tenants as well as to the proprietors.

Be it enacted by the Lieutenant-Governor, Council, and Assembly, as follows :—

Definition of the term Proprietor.

I. The terms and expressions herein-after mentioned, which, in their ordinary signification, have a more confined or different meaning, shall in this Act, except where the nature of the provisions in the context shall exclude such construction, be interpreted as follows: "Proprietor" shall be construed to include and extend to any person for the time being receiving or entitled to receive the rents, issues, or profits of any Township lands in this Island (exceeding five hundred acres in the aggregate) in his or their own right, or as Trustee, Guardian, Executor, or Administrator for any other person or persons, or as a husband in right of or together with his wife, and whether such lands are leased or unleased, occupied or unoccupied, cultivated or wilderness, provided that nothing herein contained shall be construed to affect any proprietor whose lands in his actual use and occupation, and untenanted, do not exceed one thousand acres.

The Commissioner of Public Lands to notify Proprietor of intention to purchase his lands.

II. The Commissioner of Public Lands shall, within sixty days after the publication of the Governor-General's assent to this Act in the *Canada Gazette*, notify any proprietor or proprietors that the Government of this Province intend to purchase his or their Township lands under this Act.

What is to be sufficient notification to Proprietor.

III. Every such notification may be served upon a proprietor either by delivering the same to him personally, or in his absence from this Island to his known agent or attorney, or in any case by posting the same to such proprietor through the General Post Office in Charlottetown, addressed to him at his last known place of abode, and by publishing a copy of such notice for twelve consecutive weeks in the *Royal Gazette* of this Province, and the posting of such notice and the publication of the same as aforesaid shall be deemed and held to be as good and valid notice as if the same had been personally served on such proprietor or his known agent.

Amount to be paid to Proprietor—how ascertained.

IV. The amount of money to be paid to any such proprietor shall be found and ascertained by three Commissioners, or any two of them, to be appointed as herein-after mentioned.

Government of P. E. I. to appoint a Commissioner.

V. The Lieutenant-Governor of this Island in Council shall, within sixty days after the publication of the Governor-General's assent to this Act in the *Canada Gazette*, nominate and appoint one Commissioner on behalf of the Government of this Island, for the purposes of this Act.

In case of vacancy to appoint a successor.

VI. In case of the death, neglect, refusal, or incapacity to act of the Commissioner so appointed by the Lieutenant-Governor in Council, he shall appoint a successor or successors as often as may be.

Governor-General to appoint a second Commissioner.

VII. The Governor-General of the Dominion of Canada in Council shall, within sixty days after the publication of his assent as aforesaid, nominate and appoint the second Commissioner for the purposes of this Act.

In case of vacancy to appoint a successor.

VIII. In case of the death, neglect, refusal, or incapacity to act of the Commissioner so appointed by the Governor-General in Council, he shall in Council nominate and appoint a successor or successors as often as the case may be.

Proprietor to appoint third Commissioner.

IX. Any proprietor who shall have been notified under the second section of this Act shall, within sixty days thereafter, nominate and appoint the third Commissioner on his

Proviso.

or her behalf to act with the Commissioners so to be appointed as aforesaid: Provided that such Commissioner shall not be deemed to be a Commissioner under the terms of this Act until he shall have first given notice to the Commissioner of Public Lands of such his appointment.

Vacancy of third Commissioner—how filled.

X. In case of the death, neglect, refusal, or incapacity to act of the Commissioner so to be appointed by any proprietor as aforesaid, any such proprietor may appoint a successor or successors as often as may be.

Supreme Court to appoint third Commissioner in case Proprietor refuses to do so.

XI. If any proprietor shall not, within sixty days after the notification prescribed in the third section of this Act, appoint a Commissioner, or should not within thirty days of the death, neglect, refusal, or incompetency to act of any Commissioner appointed by any proprietor as aforesaid appoint his successor, then and in either of such cases application shall be made by the Commissioner of Public Lands to the Supreme Court of Judicature of this Island to nominate a Commissioner on behalf of such proprietor.

No precedence to be claimed by one Commissioner over the others.

Presiding Commissioner—how appointed.

Proviso.

XII. No precedence shall be claimed by one Commissioner over the others of them merely because he may have been appointed by the Governor-General in Council, or the Lieutenant-Governor in Council, but the three Commissioners so appointed as aforesaid shall elect which one of them shall preside at the meeting of such Commission, to take into consideration the matters referred to them under the provisions of this Act: Provided that in case the said Commissioners shall be unable to agree upon a presiding Commissioner, then such presiding Commissioner shall be the Commissioner who shall have been appointed by the Governor-General in Council.

Commissioner of Public Lands to be notified.

XIII. When any third Commissioner shall have been appointed, the said Commissioners, or any two of them, shall, within thirty days after the appointment of the said third Commissioner, notify the Commissioner of Public Lands in writing of such their appointment.

Notice of sitting of Commissioners.

XIV. The said Commissioners, or any two of them, shall, upon the petition of the Commissioner of Public Lands, publish a notice in the *Royal Gazette* newspaper of this Province of a day and place in Charlottetown when and whereat they will hear and consider the matters referred to them under the provisions of this Act, relating to the lands of the proprietor whose Commissioner shall have been appointed, and in such notice shall specify the name of the proprietor or proprietors whose lands the Commissioners are empowered to value, and such notice shall be published for three consecutive weeks in the *Royal Gazette* newspaper of this Island.

Commissioner of Public Lands to be claimant in all proceedings.

XV. All proceedings under this Act shall be entitled, in the name of the then Commissioner of Public Lands, who in his official capacity as such Commissioner of Public Lands shall be and be considered the claimant or applicant, and shall be subject to process of contempt, and shall be personally liable for the performance of all duties imposed upon him under the provisions of this Act, and for the costs of all proceedings, in as full and ample a manner in all respects as though he were a Plaintiff in the Supreme Court, or a Complainant in the Court of Chancery in any suit in either of said Courts.

Supreme Court to appoint guardian for lunatic Proprietor.

XVI. In case any proprietor shall be a lunatic, a person of unsound mind, or a minor, or labouring under any other disability, and has no guardian, an application shall be made by the Commissioner of Public Lands to the Supreme Court for the appointment of a guardian for such lunatic, person of unsound mind, or a minor, or such other person.

Supreme Court to appoint guardian *ad litem*.

XVII. Upon such application the said Court may appoint a guardian, *ad litem*, for such lunatic, person of unsound mind, minor, or other person.

Commissioner of Public Lands to appoint a Solicitor.

XVIII. The Commissioner of Public Lands may appoint a solicitor to act for him in all matters required to be performed by him under the provisions of this Act, and any proprietor or party in anywise interested in the matter then pending may be represented by Counsel before the Commissioners.

Subpœnas.

XIX. Either party shall have power to issue Subpœnas and Subpœnas *duces tecum* to witnesses to give evidence before the Commissioners, which Subpœnas shall be issued from the Prothonotary's office upon payment of the usual fees.

Commissioners to have power to examine on oath.

XX. The said Commissioners shall have full power and authority to examine, on oath, any person who shall appear before them, either as a party interested or as a witness, and to summon before them all persons whom they or any two of them may deem it expedient to examine upon the matters submitted to their consideration, and the facts which they may require to ascertain, in order to carry this Act into effect, and to require any such person to bring with him and produce before them any book, paper, plan, instrument, document, or thing mentioned in such Subpœna, and necessary for the purposes of this Act; and if any person so subpœnaed shall refuse or neglect to appear

To compel production of books, &c.

before them, or appearing, shall refuse to answer any lawful question put to him, or to produce any such book, paper, plan, instrument, document, or thing, whatsoever, which may be in his possession or under his control, and which he shall have been required by such Subpœna to bring with him or to produce, such persons shall, for every such neglect or refusal, incur a penalty of not less than five dollars, or more than fifty dollars, payable to Her Majesty, to be recovered with costs in the names of the Commissioners, or of any or either of them, upon bill, information, or plaint, before the Supreme Court, and in default of payment, shall be imprisoned for a period not exceeding three months, in addition to any punishment for contempt which the Supreme Court may inflict.

Penalty for refusing.

XXI. The Commissioners when appointed as aforesaid shall make oath before one of the Judges of the Supreme Court that they will well and faithfully discharge the duties imposed upon them under this Act and adjudicate on all matters coming before them, to the best of their judgment, without fear, favor, or affection.

Commissioners to be sworn.

XXII. If any proprietor shall either by himself, his agent, guardian, committee, trustee or counsel, neglect to appear before the Commissioners pursuant to notice, under the provisions of this Act, the Commissioners shall be at liberty to proceed *ex parte*.

When Commissioners may proceed *ex parte*.

XXIII. The Commissioners may, upon application made by any proprietor upon cause being shown to the satisfaction of the Commissioners, grant an extension of time to such proprietor before entering upon the hearing of such proceedings before them.

Commissioners may extend time to Proprietor before entering on case.

XXIV. It shall be lawful for the Commissioners to be appointed under the provisions of this Act to enter upon all lands concerning which they shall be empowered to adjudicate in order to make such examination thereof as may be necessary without being subjected in respect thereof to any obstruction or prosecution and with the right to command the assistance of all Justices of the Peace and others, in order to enter and make such examination in case of opposition.

Commissioners to have power to enter on lands.

XXV. The Commissioners or any two of them may adjourn the hearing of any matter from time to time as they may deem necessary and expedient.

Commissioners may adjourn proceedings.

XXVI. After hearing the evidence adduced before them the Commissioners or any two of them shall award the sum due to such proprietor as the compensation or price to which he shall be entitled by reason of his being divested of his lands and all interest therein and thereto.

After hearing evidence, Commissioners to award compensation.

XXVII. The fact of the purchase or sale of the lands of any proprietor being compulsory and not voluntary shall not entitle any such proprietor to any compensation by reason of such compulsory purchase or sale, the object of this Act being to pay every proprietor a fair indemnity or equivalent for the value of his interest and no more.

No allowance to be made on account of sale being compulsory.

XXVIII. In estimating the amount of compensation to be paid to any proprietor for his interest or right to any lands the Commissioners shall take the following facts or circumstances into their consideration :

Matters to be taken into consideration by Commissioners in estimating compensation to Proprietors.

(*a.*) The price at which other proprietors in this Island have heretofore sold their lands to the Government.

(*b.*) The number of acres under lease in the estate or lands they are valuing, the length of the leases on such estates; the rents reserved by such leases; the arrears of rent and the years over which they extend, and the reasonable probability of their being recovered.

(*c.*) The number of acres of vacant or unleased lands, their quality and value to the proprietor.

(*d.*) (1.) The gross rental actually paid by the tenants on any estate yearly for the previous six years; (2) the expenses and charges connected with and incidental to the recovery of such rent, and its receipts by the proprietor; and (3) the actual net receipts of the proprietor for the said period of six years.

(*e.*) The number of acres possessed or occupied by any persons who have not attorned to or paid rent to the proprietor, and who claim to hold such land adversely to such proprietor, and the reasonable probabilities and expenses of the proprietor sustaining his claim against such persons holding adversely in a court of law, shall each and all be elements to be taken into consideration by the said Commissioners in estimating the value of such proprietor's lands; (1) the conditions of the original grants from the crown; (2) the performance or non-performance of those conditions; (3) the effects of such non-performance and how far the despatches from the English Colonial Secretaries to the different Lieutenant Governors of this island, or other action of the Crown or Government, have operated as waivers of any forfeitures; (*f.*) the quit rents reserved in the original grants, and how far the payment of the same have been waived or remitted by the Crown.

Award of Commissioners—how to be published.

XXIX. When the award shall have been made by the Commissioners or any two of them, the same shall be published by delivering a copy thereof to the proprietor, or to his agent, duly authorised as aforesaid, and filing the original in the office of the Prothonotary of the Supreme Court.

Government to pay amount of award into Colonial Treasury.

XXX. At the expiration of sixty days from such publication of the award, the Government shall pay into the Colonial Treasury the sum so awarded by the said Commissioners, or any two of them, to the credit of the suit or proceeding in which such award shall have been made.

Notice to Prothonotary that award has been paid in.

XXXI. The Colonial Treasurer shall, immediately after such payment, deliver to the Prothonotary of the Supreme Court, a certificate of the amount paid into the Treasury, as aforesaid, which certificate shall be in the form of this Act, annexed, marked A.

Public Trustee to be appointed.

XXXII. It shall be the duty of the Lieutenant Governor in Council to nominate a fit and proper person to be called the "public trustee," who, when the sum so awarded to the proprietor as aforesaid shall have been paid into the Treasury as aforesaid, shall (unless restrained by the Supreme Court, or a Judge thereof), after fourteen days' notice to the proprietor or his agent authorised as aforesaid, execute a conveyance of the estate of such proprietor to the Commissioner of Public Lands, which said conveyance may be in the form to this Act annexed, marked B.

Conveyance from Public Trustee to vest Lands in Commissioner of Public Lands to be held and disposed of under provisions of 16th Vict. cap. 18.

XXXIII. The conveyance mentioned in the last preceding section shall vest in the Commissioner of Public Lands an absolute and indefeasible estate of fee simple, free from all incumbrances of every description, and shall be held by and disposed of by him as if such lands had been purchased under the provisions of the Act passed in the sixteenth year of the reign of Her present Majesty, Queen Victoria, chapter eighteen, intituled "An Act for the purchase of lands on behalf of the Government of Prince Edward "Island, and to regulate the sale and management thereof, and for other purposes therein "mentioned," and shall also vest in the Commissioner of Public Lands all arrears of rent due upon the said lands.

Appointment of Public Trustee to be under great seal.

XXXIV. The appointment of the Public Trustee shall be under the great seal of this province, and shall be registered in the office of the Registrar of Deeds.

Party entitled to sum awarded—how to proceed to obtain the same.

XXXV. The party entitled to the sum awarded or any party or parties entitled to a portion of such sum for the lands so conveyed by the Public Trustee to the Commissioner of Public Lands, may receive the same by obtaining an order from the Supreme Court, upon presenting a petition, and upon proving his or their right to such sum, or any portion thereof: Provided that the Commissioner of Public Lands be made a party to such application.

Supreme Court to make proper persons parties to proceedings.

XXXVI. It shall be the duty of the Supreme Court upon any such application, to require that all proper persons shall be made parties to such proceedings, and to apportion such sums in such shares and proportions as such parties shall be entitled to receive.

Conveyance from Public Trustee to exonerate Government from all claims on the estate.

XXXVII. When the full sum for any lands shall have been paid into the Treasury, and the conveyance executed by the Public Trustee to the Commissioner of Public Lands, the Government shall be absolutely exonerated from all liability to any person or persons whomsoever who may claim any estate so conveyed as aforesaid, or any interest therein except as is mentioned in the next section.

Party obtaining amount of award to be paid his costs for application.

XXXVIII. The party obtaining an order from the Supreme Court for any money to which he shall be entitled for his estate so vested in the Commissioner of Public Lands, or any interest therein, shall be indemnified in his costs incurred in making such application: Provided always, that no party shall receive or be entitled to any costs who has made an unsuccessful application to the court for an order for the money so paid into the Treasury, as aforesaid, but such party shall pay to and reimburse the party who has received such order, such costs as he shall have been put to by reason of such unsuccessful application.

Proviso.

When lands taken from any Trustees purchase money—how to be invested.

XXXIX. When any estate shall be vested in the Commissioner of Public Lands under the provisions of this Act, which shall, previous thereto, have been vested in the name or names of any trustee or trustees, the Court shall order the purchase money of such estate to be invested in the name or names of such trustee or trustees upon trust to pay the interest arising from such investment, in the same manner and to the same parties as the rents, issues, and profits of the said land were payable previously to the sale thereof.

Supreme Court to make orders as to investment of pur-

XL. It shall be the duty of the said Court to make such order as to the investment and payment of the purchase money and the interest arising therefrom, as may meet the circumstances of each case, so that widows entitled to dower, infants, judgment

creditors, mortgagees, and all persons entitled to any estate or interest in the said lands, or the rents arising or to arise therefrom, or the arrears thereof, may receive either the interest of the said purchase money when invested, as aforesaid, or the purchase money or shares thereof, as shall represent their estate or interest in said lands, or the rents arising therefrom, or the arrears thereof, previous to the vesting of the same in the Commissioner of Public Lands, as aforesaid.

chase money to meet the case of dower estates, &c.

XLI. In every case when such lands have been vested in trustees, the purchase money shall be paid to such trustees, to hold the same upon the same trusts as they held the lands; and when there are no trustees the Supreme Court shall have power to appoint trustees, and shall, by an order or rule of Court declare the trusts upon which they shall hold the said purchase money, and the manner in which the purchase money shall be invested.

Trustees to hold purchase money upon same trusts as they held the lands.

XLII. The Supreme Court shall have power to dismiss any Trustee or Trustees so appointed by them, and appoint a Trustee or Trustees in the room or stead of the Trustees so dismissed.

When Supreme Court may appoint Trustees. Supreme Court may dismiss Trustees.

XLIII. The said Commissioners shall be paid by the Government of this Province for their services under and by virtue of this Act, ten dollars per day for each and every day such Commissioners shall actually be engaged in duties imposed upon them by this Act or by any reference in pursuance thereof, and such other reasonable remuneration as the Lieutenant Governor in Council shall consider them entitled to.

Remuneration of Commissioners.

XLIV. The Public Trustee shall be allowed such remuneration for his services as the Lieutenant Governor in Council shall deem him entitled to under the circumstances of each case, which shall be paid by the Government of this Province.

Remuneration of Trustee.

XLV. No award made by the said Commissioners, or any two of them, shall be held or deemed to be invalid or void for any reason, defect, or informality whatsoever, but the Supreme Court shall have power, on the application of either the Commissioner of Public Lands or the proprietor, to remit to the Commissioners any award which shall have been made by them to correct any error or informality or omission made in their award: Provided always that any such application to the Supreme Court to remit such award to the Commissioners shall be made within thirty days after the publication thereof as aforesaid; and provided further, that in case any such award is remitted back to the Commissioners, they shall have full power to revise and re-execute the same, and their powers shall not be held to have ceased by reason of their executing their first award, and in no case shall any appeal lie from any such award either to the Supreme Court, the Court of Chancery, or any other legal tribunal; nor shall any such award or the proceedings before such Commissioners be removed or taken into or inquired into by any Court by *Certiorari*, or any other process, but with the exception of the aforesaid power given to such Supreme Court to remit back the matter to such Commissioners, their award shall be binding, final and conclusive on all parties.

When Supreme Court may remit award to Commissioners.

When application to remit shall be made.

Commissioners have power to revise award.

No appeal.

No Certiorari or other process.

XLVI. The Supreme Court shall have power to make any rules and regulations not inconsistent with the provisions of this Act, for the purpose of more effectually carrying out the requirements of this Act, which rules shall be published in the *Royal Gazette* newspaper.

Supreme Court power to make rules.

XLVII. Inasmuch as it is expedient that the matters referred to the Supreme Court under this Act, shall not interfere with the ordinary business of the said Court during term time, the said Court may, from time to time, appoint sessions for the purpose of hearing proceedings under this Act: provided always, that one week's notice of such session be given in the *Royal Gazette* newspaper.

Supreme Court may appoint special sessions.

XLVIII. If the Commissioner of Public Lands shall neglect to proceed with any case pending before the Commissioners, or shall refuse to petition the Commissioners to appoint a time and place to hear the matters referred to them under the thirteenth section of this Act, when requested by any proprietor who shall have appointed a Commissioner so to do, or who shall delay or impede the proceedings in any way, such Commissioner of Public Lands shall, upon proof thereof, before the Supreme Court, be punished by fine or imprisonment.

Penalty on Commissioner of Public Lands for neglecting to proceed under the provisions of this Act.

XLIX. After the Commissioner of Public Lands shall have given notice to any proprietor, under the second section of this Act, no such proprietor to whom such notice shall have been given, shall maintain any action at law for the recovery of more than the current year and subsequent accruing rents due to him from any tenant or occupier upon his lands, and in case any such action is brought against any tenant by any such proprietor, such tenant may plead this Act in bar of such action, nor shall any execution issue on any judgment recovered or to be recovered for rent by any such proprietor

After Commissioner of Public Lands shall have given notice to Proprietor, he shall not collect more than current year and subsequent accruing rents.

against any tenant on this Island except the current year's rent and subsequent accruing rents, and in case any such execution is issued the Supreme Court or a Judge thereof, shall, on application, stay any such execution until the award of the said Commissioners shall be made.

Title of Act.

L. This Act shall be cited and known as "The Land Purchase Act, 1875."

Schedule A.

(A.)

Dominion of Canada,
Province of Prince Edward Island,

In the matter of the application of X. Y., the Commissioner of Public Lands for the purchase of the estate of A. B., and "The Land Purchase Act, 1875."

Form of notice from Treasurer to Prothonotary that amount awarded has been paid into treasury.

I certify that the sum of has been placed to the credit of the account opened in the above matter, which said amount will be paid to such party or parties as the Supreme Court shall, by rule in the above matter, order and direct.

Dated this day of 187

Treasurer.

Schedule B.

(B.)

Dominion of Canada,
Province of Prince Edward Island,

In the matter of X. Y., the Commissioner of Public Lands for the purchase of the estate of A. B., and "The Land Purchase Act, 1875."

Form of Deed from Public Trustee to Commissioner of Public Lands.

Know all men by these presents that I, C. D., the Public Trustee, duly appointed under the provisions of "The Land Purchase Act, 1875," do by these presents and by virtue of this Act, (the sum of $ having been paid into the Treasury of this Province in the above matter as appears by the certificate of the Treasurer of said Province hereto annexed), grant unto X. Y., the Commissioner of Public Lands and his successors in office, all that (here describe land particularly by metes and bounds) to have and to hold the same, together with all arrears of rent due thereon to the said X. Y., Commissioner of Public Lands, and his successors in office in trust for such purposes, and subject to such powers, provisions, regulations, and authorities in every respect, and to be managed and disposed of in such modes as are set forth, declared, and contained in an Act passed in the sixteenth year of the reign of Her present Majesty Queen Victoria, cap. 18, intituled "An Act for the purchase of lands on behalf of the "Government of Prince Edward Island, and to regulate the sale and management "thereof, and for other purposes therein mentioned," and of all other Acts in amendment thereof and concerning lands purchased thereunder by and conveyed to the Commissioner of Public Lands therein mentioned.

In witness whereof I have hereunto set my hand and seal this day of A.D. 187

Witness to the execution by the said C. D.

No. 2.

The EARL OF DUFFERIN to the EARL OF CARNARVON.

Canada, Government House, Ottawa,
March 2nd, 1876.

My Lord, (Received March 16th.)

I now beg leave to enclose for your Lordship's information the judgment* of the Prince Edward Island Supreme Court on the appeals from the awards of the Land Act Commissioners, as well as a Memorandum thereon by the Right Honourable Hugh Childers, one of the Commissioners.

I have, &c.

To the Right Hon. the Earl of Carnarvon, &c. &c. &c.

(Signed) DUFFERIN.

* Inclosure in No. 1.

MEMORANDUM.

This memorandum is written at the request of his Excellency the Governor-General, with a view to explain what is the effect of the recent judgment of the Supreme Court in Prince Edward Island on the proceedings of the Land Commission of which I was lately chairman.

I have no official papers to refer to, except a copy of the Act and of the judgment, but I will state what has happened as accurately as I can.

We decided in September last ten cases, eight unanimously, two by a majority of the Commission. Of the eight unanimous awards six have been accepted, one has been referred back for reconsideration on a point of minor detail (not argued before the Commission) and one (Mr. Ponsonby Fane's), although appealed from, has (I hear from the Provincial Secretary) been now accepted on condition of immediate payment. Of the two awards, as to which the Commissioners were not unanimous, one (Mr. Stewart's) has been accepted in substance; but Mr. Stewart has raised two points of law, namely, whether certain lands recently conveyed to his sons should be included in the sale, and whether the payment should be in gold or Dominion notes. On the first point the Court decided against him, and as to the second I learn from the Provincial Secretary that arrangements have been made for payment in gold.

There remains therefore only one case, Miss Sulivan's, affected by the judgment of the Supreme Court, and in this case our award has been set aside. In order to explain the exact purport of the judgment I must refer to the Act and to our proceedings under it. The object of the Act was to revest in the Crown the township lands belonging to proprietors who owned beyond a certain amount, and ultimately to convert the leasehold tenure into freehold estate. The amount of money to be paid to each proprietor was to be ascertained by commissioners, who were empowered to take evidence on oath, and to compel the attendance of witnesses and the production of papers; and the 26th section of the Act provided that "after hearing the evidence adduced before them, the Commissioners shall award the sum due to the proprietor as the price to which he shall be "entitled by reason of his being divested of his lands, and all interest therein and "thereto." By the 30th section the Government were required to pay the sum so awarded into the Treasury, and a special office of Public Trustee was created whose duty was to execute in due time the conveyance of the estate to the Commissioner of Public Lands. By the 30th and 36th sections the Supreme Court were to decide who might be the party or parties entitled to receive the sums awarded or portions of them; and by the 45th section no award could be held to be invalid or void for any reason, defect, or informality whatever; but the Supreme Court was given power to remit to the Commissioners any award in order to correct any informality or omissions. Every other appeal was taken away. By the 28th section the Commissioners in estimating the amount to be paid to any proprietor were to take into their consideration certain special facts and circumstances. These were:—

(*a.*) The price paid by Government for other lands.

(*b.*) The particulars of the lease, the amount of arrears, and the probability of their being recovered.

(*c.*) The particulars of the unleased land.

(*d.*) The actual gross receipts, charges, and net receipts.

(*e.*) The acreage claimed to be held adversely, and the probabilities of the proprietor enforcing his claim. The conditions of the original grants, and their performance, the effects of non-performance, and how far any forfeitures had been waived. The quit rents reserved, and how far their payment had been remitted.

The Commissioners fully complied with all these requirements. They inquired into all the circumstances to which their attention had been directed by the Act, hearing counsel and examining witnesses on each point; and after the cases were closed they awarded the sums due to each proprietor in the following form:—

"In the matter of the application of *A. B.*, the Commissioner of Public Lands for the purchase of the estate of *C. D.*, and the Land Purchase Act, 1875, the sum awarded under section 26 of the said Act is dollars."

The Supreme Court of Prince Edward Island (nominally in two, practically in one, Miss Sulivan's case,) have not remitted the awards to the Commissioners for reconsideration, but have gone so far as to set them aside altogether. This they have done on the following grounds as to each:—

The award does not express that judgment was given pursuant to the Act.

It should have shown that the Commissioners decided the several preliminary matters, a, b, c, d, &c., they had to consider.

It did not decide the question of quit rents.

It did not set out the metes and bounds of the farms, or show in respect of what particular parcels of land leased or unleased the compensation was respectively given.

It should have stated whether any breach in the original conditions of the grants was waived or not.

It should have shown the names of all persons who had acquired, in the opinion of the Commissioners, a title by possession to any of the proprietor's land, and how much in each case.

It should have shown the names of all squatters and how much land each held for less than twenty years.

It should have set out the name of every tenant, how much he was in arrear, and what was allowed in respect of the arrears in each case.

In other words the Court have held that instead of simply awarding in each case the sum due to the proprietor, it was our duty to incorporate in our awards some hundreds, if not thousands, of decisions on matters, some small, some great, some of law, some of fact, and some of mixed law and fact, apparently in order that each of them might, if necessary, be considered by the Supreme Court in the event of proceedings being taken to send back an award for correction.

Unless this judgment should be reversed on appeal I must of course assume that it is sound in law; but had the Commission imagined that it was their duty to frame their awards as the Court have indicated, I do not think that any one of us would have consented to act. Our inquiries for instance, in Miss Sulivan's and Mr. Stewart's cases, instead of occupying four days each would have extended to at least as many months. It would have been necessary to appoint an army of surveyors to examine minutely the proprietor's accounts for many years past with above a thousand farmers, and to inquire on the spot as to the actual particulars of squatting operations by several hundred persons during the last thirty years.

Whatever may be the merits or demerits of the Act, it would be absolutely unworkable under the interpretation put upon it by the Supreme Court.

What I undertook to do at Lord Dufferin's request was simply to decide as between the proprietors and the Local Government, what sum should be awarded to each for their estates, and I was told that if I devoted a month or six weeks to this inquiry I should be able to settle the principal cases with the assistance of a Commissioner appointed by each side. I completed what I had undertaken, and it is satisfactory to find that in every case but one our award has been virtually accepted. In that one case it has been set aside, not upon the merits, but on technical grounds, which if foreseen would (I fear) have prevented the Act from being put into operation at all.

I learn, however, that the Island Government have decided to appeal to the Supreme Court of the Dominion. I hope that this may lead to some settlement with Miss Sulivan, as I cannot conceive any Commissioners being likely to increase the amount of the award in her case.

I may add that the form of the award, to which the Supreme Court takes exception, was only settled after much consideration, and on the advice of a most experienced lawyer, formerly a judge, whom I was able (unofficially) to consult.

Before we commenced our proceedings I was anxious that the Supreme Court, which under the 46th section had power to make "any rules for the purpose of more effectually "carrying out the requirements of the Act," should adopt some rules for the guidance of the Commissioners, inasmuch as though not necessarily lawyers, we had to act as a Court, and I pressed this on one of the judges. No such rules, however, were made, and all our regulations, notices, and forms, were settled by ourselves.

Ottawa, 1st March, 1876. HUGH C. E. CHILDERS.

LONDON:
Printed by GEORGE E. EYRE and WILLIAM SPOTTISWOODE,
Printers to the Queen's most Excellent Majesty.
For Her Majesty's Stationery Office.

MERCHANT SHIPPING LEGISLATION (CANADA).

RETURN to an Address of the Honourable The House of Commons, dated 17 March 1876;—*for*,

"COPIES of all PAPERS and CORRESPONDENCE between Her Majesty's Government and the Government of the Dominion of *Canada* since the 1st day of January 1875, in relation to IMPERIAL MERCHANT SHIPPING LEGISLATION as affecting SHIPPING registered in *Canada*:"

"Of all CORRESPONDENCE between the said Governments as to the EXEMPTION of CANADIAN SHIPPING from the Operation of IMPERIAL LEGISLATION:"

"And, of all CORRESPONDENCE between the said Governments in relation to CANADIAN LEGISLATION for the Inspection of CANADIAN VESSELS, and the extent to which Her Majesty's Government will accept Canadian Certificates as equivalent to Board of Trade Inspection and Certificates."

Board of Trade,
22 April 1876.

T. H. FARRER.

(*Mr. Norwood.*)

Ordered, by The House of Commons, *to be Printed*,
24 *April* 1876.

CONTENTS.

—	Date.		Page.
1	23 Sept. 1874	Earl Dufferin to Earl Carnarvon - - - - - -	3
2	29 Dec. „	Colonial Office to Board of Trade - - - - - -	3
3	11 Feb. 1875	Earl Carnarvon to Earl Dufferin - - - - - -	4
4	6 May „	Earl Dufferin to Earl Carnarvon - - - - - -	5
5	25 May „	Colonial Office to Board of Trade - - - - - -	16
6	26 June „	Board of Trade to Colonial Office - - - - - -	16
7	8 July „	Earl Carnarvon to Officer Administering the Government of Canada.	17
8	14 April „	Colonial Office to Board of Trade - - - - - -	17
9	26 April „	Board of Trade to Colonial Office - - - - - -	17
10	23 April „	Earl Dufferin to Earl Carnarvon - - - - - -	18
11	11 May „	Colonial Office to Board of Trade - - - - - -	19
12	31 July „	Colonial Office to Board of Trade - - - - - -	19
13	4 Aug. „	Board of Trade to Colonial Office - - - - - -	20
14	24 Sept. „	Colonial Office to Board of Trade - - - - - -	20
15	4 Oct. „	Board of Trade to Colonial Office - - - - - -	22
16	7 Oct. „	Earl Carnarvon to Earl Dufferin - - - - - -	22
17	22 Oct. „	Earl Carnarvon to the Officer Administering the Government of Canada.	22
18	10 Feb. 1876	Earl Dufferin to Earl Carnarvon - - - - - -	23
19	26 Feb. „	Colonial Office to Board of Trade - - - - - -	26
20	29 Feb. „	Board of Trade to Colonial Office - - - - - -	27
21	29 Feb. „	Colonial Office to the Earl Dufferin (Telegram) - - -	27
22	1 Mar. „	Board of Trade to Colonial Office - - - - - -	27
23	2 Mar. „	Earl Carnarvon to Earl Dufferin - - - - - -	29
24	4 Mar. „	Colonial Office to Board of Trade - - - - - -	29
25	16 Mar. „	Board of Trade to Colonial Office - - - - - -	30
26	22 Mar. „	Colonial Office to Board of Trade - - - - - -	32
27	24 Mar. „	Colonial Office to Board of Trade - - - - - -	32
28	4 April „	Board of Trade to Colonial Office - - - - - -	33
29	18 Feb. „	Earl Dufferin to Earl Carnarvon - - - - - -	34
30	7 Mar. „	Colonial Office to Board of Trade - - - - - -	37
31	3 April „	Colonial Office to Board of Trade - - - - - -	37
32	19 April „	Colonial Office to Earl Dufferin - - - - - -	38

COPIES of all PAPERS and CORRESPONDENCE between Her Majesty's Government and the Government of the Dominion of *Canada* since the 1st day of January 1875, in relation to IMPERIAL MERCHANT SHIPPING LEGISLATION as affecting SHIPPING registered in *Canada* :—Of all CORRESPONDENCE between the said Governments as to the EXEMPTION of CANADIAN SHIPPING from the Operation of IMPERIAL LEGISLATION:—And, of all CORRESPONDENCE between the said Governments in relation to CANADIAN LEGISLATION for the Inspection of CANADIAN VESSELS, and the extent to which Her Majesty's Government will accept Canadian Certificates as equivalent to Board of Trade Inspection and Certificates.

— No. 1: —

The Earl of *Dufferin* to the Earl of *Carnarvon.*

Government House, Ottawa,
My Lord, 23 September 1874.

I HAVE the honour to transmit herewith a certified copy of the Statutes of Canada, passed during the last Session. *Acts not printed.*

* * * * * *

I have, &c.
(signed) *Dufferin.*

The Right Hon. The Earl of Carnarvon.

— No. 2. —

(M. 17,501.)

Colonial Office to Board of Trade.

Sir, Downing-street, 29 December 1874.

I AM directed by the Secretary of State for the Colonies to transmit to you, to be laid before the Board of Trade, the accompanying transcripts of three Acts passed by the Legislature of the Dominion of Canada, entitled, respectively,— *Returned.*

No. 30. "An Act further to amend the 'Act respecting the Inspection of Steamboats.'"

No. 32. "An Act to provide for the appointment of Port Wardens at certain Ports of the Dominion."

No. 34. "An Act to provide for the appointment of Harbour Masters for certain Ports in the Provinces of Quebec, Ontario, British Columbia, and Prince Edward Island."

I am desired to request that you will move the Board of Trade to signify to this department their opinion whether these Acts may properly be allowed to remain in operation.

I am, &c.
(signed) *Julian Pauncefote.*

The Secretary to the Board of Trade.

P.S.—It is requested that the volume containing the Acts may be returned to this department with your reply.

— No. 3. —

The Earl of *Carnarvon* to the Earl of *Dufferin.*

My Lord, Downing-street, 11 February 1875.

I REFERRED for the consideration of the Board of Trade, copies of the Acts, Nos. 30, 32, and 34 of the Parliament of the Dominion of Canada, which accompanied your Despatch, No. 238, of the 23rd of September 1874.

2. I have now to inform you that Her Majesty will not be advised to exercise Her power of disallowance with respect to the Act, No. 34 of 1874, entitled " An Act to provide for the Appointment of Harbour Masters for certain Ports in the Provinces of Quebec, Ontario, British Columbia, and Prince Edward Island."

3. With regard to the Acts Nos. 30 and 32, entitled respectively,

No. 30. " An Act further to amend the ' Act respecting the Inspection of Steamboats ;' "

No. 32. " An Act to provide for the Appointment of Port Wardens at certain Ports of the Dominion,"

I transmit to you, for the consideration of your Ministers, an extract of a letter from the Board of Trade, in which certain grounds of objection are suggested to some of the provisions of these Acts, and I should be glad to be furnished with the views of your Government on the important points which are raised.

4. In the meanwhile I will defer tendering any advice to Her Majesty on the subject of these two measures.

I have, &c.

Governor General the Right Honourable The Earl of Dufferin, K.P., K.C.B., &c. &c. &c.

(signed) *Carnarvon.*

Enclosure in No. 3.

EXTRACT of a LETTER from the Board of Trade to the Colonial Office, dated Board of Trade, 4 February 1875.

" WITH respect to No. 30, ' An Act to further amend the Act respecting the Inspection of Steam Boats,' the Board of Trade presume that it is only applicable to colonial vessels engaged on inland waters or in the coasting trade.

" If this is the case, they are of opinion that the Colonial authorities are the best judges of their own requirements. But should the provisions of the Act be intended to apply to other ships, British or Foreign, they would point out to the Earl of Carnarvon that considerable difficulties may arise. In the case of British vessels trading with the United Kingdom, these vessels are already subjected to regulations by the Imperial law, and it would produce much inconvenience and hardship if these vessels were subjected to fresh and different regulations in Canada. In the case of foreign ships, the difficulties would obviously be still greater.

" As regards No. 32, which is entitled ' An Act to provide for the Appointment of Port Wardens at certain Ports of the Dominion,' the Board of Trade observe that it imposes upon these Government officers the following, amongst other, duties :—

Sections 4, 5, and 6. " 1. Of examining all questions of damage to cargo, and of reporting on them.

Sections 7 and 8. " 2. Of examining all questions of damage to ships, and of determining absolutely what repairs are required to render a ship seaworthy.

Sections 9, 10, and 11. " 3. Of settling and absolutely controlling the stowage of grain cargoes.

Section 15. " 4. Of controlling the sale of damaged ships and cargoes.

Section 21. " And in performing these duties they are to conform to the regulations of Lloyd's.

" The above-mentioned powers go much further than any which the Imperial Legislature has ever thought fit to intrust to any Imperial officials, and are at variance with the principles of the Report of the late Commission on Unseaworthy Ships.

" The Act transfers to the Government a responsibility which has till the present time rested on shippers, shipowners, and underwriters, and renders it impossible for the latter to complain, or take any steps on their own account, if wronged by the act or neglect of

of a Government official. Besides this, it incorporates in its provisions the fluctuating regulations of a private institution.

"It is further to be observed that, as this Act applies to ships which do not belong to Canada, and which trade between Canada and other countries, it will directly affect interests which are not purely Canadian."

— No. 4. —

The Earl of *Dufferin* to the Earl of *Carnarvon*.

Government House, Ottawa,
6 May 1875.

My Lord,

I HAVE the honour to transmit herewith a copy of an approved Minute of my Privy Council relating to the objections taken by the Board of Trade to some of the provisions of the Canadian Acts, 37 Vict. c. 30, entitled "An Act further to amend the Act respecting the Inspection of Steamboats," and the Act 37 Vict. c. 32, entitled "An Act to provide for the Appointment of Port Wardens at certain Ports of the Dominion."

The letter from the Board of Trade above referred to was enclosed in your Lordship's Despatch, No. 46, of the 11th of February last.

See ante, No. 3.

I have, &c.
(signed) *Dufferin.*

The Right Hon. the Earl of Carnarvon,
&c. &c. &c.

Enclosure in No. 4.

COPY of a REPORT of a Committee of the Honourable the Privy Council, approved by His Excellency the Governor General in Council on the 5th of May 1875.

THE Committee of Council have had under consideration the Despatch from the Right Honourable the Earl of Carnarvon, No. 46, of the 11th February last, stating that the Act 37 Vict. c. 34, passed by the Parliament of Canada would not be disallowed, and transmitting a copy of a letter from the Boaad of Trade in which certain grounds of objection are suggested to some of the provisions of the Act 37 Vict. c. 30, entitled "An Act further to amend the Act respecting the Inspection of Steamboats," and the Act 37 Vict. c. 32, entitled "An Act to provide for the Appointment of Port Wardens at certain Ports of the Dominion."

The above-mentioned Despatch, with the letter from the Board of Trade, having been referred to the Honourable the Minister of Marine and Fisheries, that officer has made a Report, dated 1st May 1875, and hereunto annexed.

The Committee concur in the said Report, and submit the same for your Excellency's approval, and they recommend that a copy of this Minute and of said Report be transmitted to Her Majesty's Secretary of State for the Colonies.

Sub-Enclosure in No. 4.

MARINE AND FISHERIES, CANADA.

Ottawa, 1 May 1875.

THE undersigned has the honour to report to Council that he has had under consideration the Despatch from the Right Honourable the Earl of Carnarvon, No. 46, of the 11th February last, stating that the Act 37 Vict. c. 34, passed by the Parliament of Canada would not be disallowed, but transmitting a copy of a letter from the Board of Trade in which certain grounds of objection are suggested to some of the provisions of the Act 37 Vict. c. 30, entitled "An Act further to amend the Act respecting the Inspection of Steamboats," and the Act 37 Vict. c. 32, entitled "An Act to provide for the Appointment of Port Wardens at certain Ports of the Dominion."

With reference to the objections of the Board of Trade to the Act amending the Steamboat Inspection Act, that if intended to apply to British or foreign ships, much inconvenience and hardship would be produced, as such vessels would be subject to "fresh and different regulations in Canada," the undersigned would observe that the original Act respecting the inspection of steamboats, and for the greater safety of passengers by them,

(Enclosure No. 1). Copy of the Preamble and of the 41st Section of the Act 33 Vict. c. 65.

33 Vict. c. 65, as will be seen by reference to the preamble and the 41st section of the Act, refers only to steamboats navigating the waters of the Dominion of Canada, or owned or registered in the Dominion of Canada, and departing from or arriving at any port or place in the Dominion of Canada, and only applies to such vessels when trading in Canadian waters. The Act will consequently not apply to British ships or foreign ships trading between Canada and the United Kingdom, or between Canada and foreign countries; but where British or foreign ships engage in the passenger coasting trade of Canada, such vessels will come under the operation of the Act, in order that due protection may be afforded to the lives of Canadians sailing in such vessels. The undersigned would also observe that the original Act, of which the Act objected to by the Board of Trade is only an amendment, was sanctioned a number of years since by Her Majesty, and has been found to work well, and without subjecting British or foreign vessels to inconvenience and hardship, and no complaints against the Act have been made by the owners or agents of such vessels. A copy of the original Act, with amendments thereto, is annexed hereto.

With reference to the objections made to the Act for providing for the appointment of port wardens, the undersigned would observe that the Act in question was taken from the Canadian Acts, 26 Vict. c. 52, 29 Vict. c. 59, and 36 Vict. c. 11, relating to the office of Port Warden at Montreal, which Acts were sanctioned by Her Majesty some years since, and have been found to be of great service in saving life and property, not only as respects Canadian vessels, but also as respects British ships. Previous to 1873, vessels laden with grain at Montreal could clear and go to sea without a certificate from the Port Warden by payment of a penalty of 40 dollars; but as several English steamers, laden with grain, which escaped by the payment of the small penalty referred to without a proper certificate, foundered at sea, and many lives were lost thereby, an amendment to the Act was prepared in 1873 by his department, submitted to Parliament, and became law, by which the clearing of vessels without a certificate from the Port Warden that the vessel had been properly loaded and stowed was prohibited, and a penalty of 800 dollars imposed on vessels sailing without such certificate. This Act was sanctioned by Her Majesty, and it has been productive of the greatest benefit, not only to shippers, but also to shipowners, underwriters, and crews of vessels, as no vessels loaded with grain, so far as his department is aware, have foundered or disappeared since the passing of the Act. The undersigned has been informed that a similar law is in operation at the port of New York and other grain-loading ports in the United States, and has been attended with like beneficial results to vessels engaged in the trade. It is probable that Imperial legislation of a similar character to that objected to in the present instance has not hitherto been required in the United Kingdom with reference to inspection of vessels loaded with grain, as that country, as a rule, is a consumer and not an exporter of grain. The undersigned would observe that the Act complained of is as nearly as possible a copy of the Montreal Act, which has been found to work so well, and he is of opinion that it is the duty of the Parliament of Canada, in the interests of humanity, to protect as far as possible the lives not only of Canadian mariners, but also of British and foreign seamen engaged in the grain-carrying trade of Canada, which requires much care and supervision in respect of stowage, and that it would be impracticable to make laws and restrictions in Canada for the safety of life and property at sea, as in the case of the Act objected to, and the deck-load law, to apply only to Canadian ships, while British and foreign vessels were exempted, as such a policy would have the effect of transferring the carrying trade of Canada from Canadian ships to British and foreign ships. If such vessels visit Canada to compete with Canadian vessels in the carrying trade, it would appear to be only reasonable that they should be required to submit to the same laws as Canadian vessels engaged in such trade, more especially as such laws are framed in the cause of humanity and for the benefit of all vessels alike.

(Enclosure No. 2).

The undersigned would also observe that the Acts and amendments relating to the Port Warden at Montreal, from which the Act 37 Vict. c. 32, was taken, were passed before the Report of the Commission on Unseaworthy Ships referred to in the letter of the Board of Trade was known here, and as the principles of the Act have been well tested by the Montreal Act on the subject, which was approved by Her Majesty, the undersigned is of opinion that the Act is in the interests of trade and commerce, and will conduce to the protection of life and property at sea. A copy of the rules and bye-laws of the office of Port Warden at Montreal, containing the substance of Acts and amendments relating to that office is annexed hereto for transmission to Her Majesty's Government.

Respectfully submitted,
(signed) *A. J. Smith*,
Minister of Marine and Fisheries.

(Enclosure No. 1.)

EXTRACTS from Act 33 Vict. c. 65.

Preamble.

FOR the greater security of life and property on board steamboats navigating the waters of the Dominion of Canada, or owned or registered in the Dominion of Canada, and departing from or arriving at any port or place in the Dominion of Canada, Her Majesty,

Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

41. This Act shall not apply to steamboats belonging to Her Majesty the Queen, nor to steamboats registered in Great Britain or Ireland, or in any foreign country, and plying between any port or place in the Dominion of Canada and any port or place outside of the Dominion of Canada. Section 41.

(Enclosure No. 2.)

RULES and BYE-LAWS of the OFFICE of PORT WARDEN of the HARBOUR of MONTREAL.

Approved, May 1874.

SUBSTANCE of ACTS and AMENDMENTS arranged consecutively for Convenience of PORT WARDEN.

26 Vict. c. 52.

WHEREAS the increasing trade of the city and business of the Harbour of Montreal renders the office of Port Warden necessary: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Office Created.

1. There shall be at the City of Montreal an officer who shall be designated the Port Warden of the Harbour of Montreal.

37 Vict. c. 33, s. 1.

Board of Examiners.—Appointment to Office.

2. The appointment to the office shall be made by the Governor in Council on the recommendation of the Board of Trade of Montreal, and the control of the office shall be in the Council of the Board of Trade of Montreal, which shall annually appoint a Board of examiners, five in number, who shall examine all candidates for the office of Port Warden, or such number of Deputy Port Wardens as the said Council may from time to time deem necessary for the business of the harbour, and upon the recommendation of the said examiners the Council shall make the appointments of such deputies.

26 Vict. c. 52.

Oath of Office.

3. The person so appointed to be Port Warden shall, before acting as such, take and subscribe the following oath of office before some justice of the peace for the district of Montreal, who is hereby empowered to administer the same, and who shall have the custody thereof:—

Form.

"I, A. B., do solemnly swear that I will faithfully and impartially, to the best of my judgment and ability, perform the duties of the office of Port Warden of the Harbour of Montreal, without fear, favour, or affection for any person or party whomsoever."

Fees.

4. The Port Warden shall receive no fees whatever, other than such as strictly appertain to the business of his office; all such fees shall be recorded in his books, and he shall make a certified annual return to the said Council of the Board of Trade of the receipts and expenses of his office.

37 Vict. c. 33.

Removal for Misconduct.—Examiners to make Regulations.

5. The Port Warden, or any Deputy Port Warden, may be removed for misconduct or neglect of duty at the instance or discretion of the Council of the Board of Trade; and the said Board of Examiners shall make, and when they think it necessary, may repeal or amend all such rules and regulations or bye-laws for the guidance of, or to be carried out by, the Port Warden or any Deputy Port Warden as they may deem from time to time necessary, subject to the approval of the Council of the Board of Trade.

26 Vict. c. 52.

Port Warden's Office Books, &c.

6. The Port Warden shall, at his own expense, keep an office always open, on lawful days, from 9 a.m. till 6 p.m. during the season of navigation, and from 10 a.m. till 2 p.m. during the remainder of the year, and shall have a seal of office, and the necessary book, in which all his acts as Port Warden, and those of his deputies, with their fees of office, shall be recorded in such manner as the Board of Examiners shall direct.

Duty of Port Warden as to Stowage of Cargo, &c.

7. It shall be the duty of the Port Warden or his deputy, on being notified and requested by any of the parties interested, to proceed in person on board of any vessel for the purpose of examining the condition and stowage of cargo; and if there be any goods damaged on board such vessel, he shall inquire, examine, and ascertain the cause or causes of such damage, and make a memorandum thereof, and enter the same in full on the books of his office.

Duty of Masters of Vessels which have Broken Bulk before Arrival; and as to Vessels which have not so Broken Bulk.

8. The master of any vessel which has broken bulk for the purpose of lightening or other necessary purpose, previous to her arrival in the Harbour of Montreal, shall immediately on the discovery of any damaged cargo, proceed to hold a survey on the same in the manner herein prescribed, before the same shall be moved out of the place in which it was originally stowed; and if, after the arrival in port of any vessel from beyond the seas, which has not had occasion to lighten, break bulk, or otherwise discharge any portion of her cargo before coming into the harbour, the hatches of such vessel shall be first opened by any person not a Port Warden, and the cargo or any part thereof shall come from on board such ship in a damaged condition, these facts shall be *primâ facie* evidence that such damage occurred in consequence of improper stowage or negligence on the part of the persons in charge of the vessel, and such default shall, until the contrary be shown, be chargeable to the owner, master, or other person interested as part owner or master of the said vessel.

29 Vict. c. 59, s. 5.

The penalty for any and every infraction or breach of the 8th section of this Act shall be the sum of 40 dollars. *See* Amendment, 29 Vict. c. 59, s. 5.

26 Vict. c. 52.

Inspecting Goods Damaged, &c.

9. The Port Warden shall, when required, proceed to any ship, steamer, or other vessel, warehouse, dwelling, or wharf, and examine any merchandise, vessel, material, produce, or other property, said to have been damaged on board of any vessel, and inquire, examine, and ascertain the cause of such damage, make a memorandum thereof, and of such property, and record in the books of his office a full and complete statement thereof.

Inspecting Vessels Wrecked or Damaged.—Assistants.

10. The Port Warden shall, when required, be surveyor on any vessel which may have suffered wreck or damage, or which shall be deemed unfit to proceed on her voyage; he shall examine the hull, spars, rigging, and all appurtenances thereof, shall specify what damage has occurred, record in the books of the office a full and particular account of all surveys held on such vessel; he shall call to his assistance, if necessary, in such survey, one or more carpenters, sail-makers, riggers, shipwrights, or other persons skilled in their profession, who shall each be entitled to a fee not exceeding two dollars for the first survey, and one dollar for each subsequent one on which their services may be required, to aid him in the examination and survey, but no such surveyor must be interested in the case; the Port Warden shall also, if required, be surveyor of the repairs necessary to render such vessels seaworthy, and his certificate that these repairs have been properly made shall be evidence that the vessel is seaworthy.

Surveys of Vessels and Cargoes.

11. The Port Warden shall have cognisance of all matters relating to the surveys of vessels and their cargoes, arriving in port damaged, and when requested shall, on payment of the regular fee, give certificates of such surveys.

37 Vict. c. 33.

Duty of Masters of Vessels taking Grain in Bulk.—Duties of Port Wardens as to such Vessels.

12. The master of any vessel intending to load grain in bulk, for any port not within the limits of inland navigation, shall, before taking in any of such grain, notify the Port Warden from time to time while the different chambers are being prepared, to survey and inspect

inspect the said vessel: the Port Warden in such case shall ascertain whether such vessel is in a fit state to receive and carry the cargo intended for her to its destination; he shall record in his books the condition of the vessel; if he finds she is not fit to carry the cargo in safety, he shall state what repairs are necessary to render her seaworthy; before beginning to load each chamber he shall be careful to see that such chamber is in a fit and proper state and condition to receive grain, and should he deem it necessary, he may order that such chamber be properly dunnaged and lined, and provided with shifting boards, or that the same be dunnaged, or lined, or provided with shifting boards; and he shall see that the boards and plank used for these purposes are properly seasoned; he shall examine the pumps and see that they are properly lined and dunnaged; he shall enter in the books in his office all particulars connected with these surveys and grant the necessary certificates.

His Duties as to Dunnage.

13. It shall be the duty of the Port Warden when required, to decide if any and what amount of dunnage is necessary below cargo, and also between wheat or other grain and the cargo to be stowed over it, and his certificate shall be *primâ facie* evidence of the good stowage of the cargo so far as these points are concerned.

As to Seaworthiness of Vessels.

36 Vict. c. 11, s. 5.

14. The master of any vessel wholly or partly laden with grain for any port not within the limits of inland navigation shall, before proceeding on his voyage or clearing the Custom House for the same, notify the Port Warden, whose duty it shall then be to proceed on board such vessel and examine whether she is in a fit state to proceed to sea or not; if she is found unfit, the Port Warden shall state in what particulars and on what conditions only she will be deemed in a fit state to leave, and shall notify the master not to leave the port until the required conditions have been fulfilled, and in case of the master refusing or neglecting to fulfil the same, the Port Warden shall notify the collector of customs in order that no clearance may be granted for the vessel until such required conditions have been fulfilled, and a certificate thereof granted by the Port Warden or his deputy. *See* Amendment of 1873, Section 5.

36 Vict. c. 11, s. 1.

No officer of customs shall grant a clearance to any vessel wholly or partly laden with grain, for the purpose of enabling her to leave the Port of Montreal for any port not within the limits of inland navigation, unless nor until the master of such vessel produces to him a certificate from the Port Warden or his deputy, to the effect that all the requirements of the 12th Section of this Act have been fully complied with, if such grain be laden in bulk; nor unless nor until such master produces to him a certificate from the Port Warden or his deputy, that all the requirements of the 14th Section of this Act have been fully complied with, if such vessel be wholly or partly laden with grain, otherwise than wholly or partly in bulk; and if any vessel wholly or partly loaded with grain attempts to leave the Port of Montreal without a clearance, for any port not within the limits of inland navigation, any officer of customs or any person acting under the direction of the Minister of Marine and Fisheries, or the chief officer of the river police, may detain such vessel until such certificate is produced to him. *See* Amendment of 1873, Section 1.

26 Vict. c. 52.

Value or Measurement of Vessels.

15. The Port Warden n shall, when required, estimate the value and measurement of an vessel when the same is in dispute or otherwise needed, and shall record the same in they books of his office.

26 Vict. c. 52. Amended by 29 Vict. c. 59, s. 5.

Auctioneers Selling Damaged Vessels or Goods to report to Port Warden.

16. It shall be the duty of every auctioneer making a sale of any vessel condemned, or ship's materials, or goods damaged on board a ship or vessel, whether seagoing or of inland navigation, sold for benefit of underwriters or others concerned, in the city of Montreal, to file a statement of the same at the office of the Port Warden within ten days after such sale; no underwriter's sale shall take place until after at least two days' public advertisement in not less than two English and one French newspaper in the city of Montreal, and such sales shall not be at an hour earlier than 12 nor later than three o'clock in the day. (The penalty for any and every infraction or breach of this section is 20 dollars. *See* Amendment, 29 Vict. c. 59, s. 5).

26 Vict. c. 52.

Disputes between Masters and Consignees, &c.

17. It shall be the duty of the Port Warden, when required in writing, by all parties in interest, to hear and arbitrate upon any difficulty or matter in dispute between the master or consignee of any ship or vessel, and any proprietor, shipper or consignee of the cargo, and keep a record thereof.

Survey before Sale of Damaged Vessels, &c.

18. No goods, vessels, or other property shall be sold as damaged for account of underwriters, unless a regular survey and condemnation has previously been had, and the Port Warden shall in all such cases be one of the surveyors.

Substance of 36 Vict. c. 11, s. 6.

The Port Warden may, in any case he thinks it right and necessary, initiate proceedings, and hold surveys, and obtain process, as if required by the parties concerned under the provision of this Act. *See* Amendment of 1873, s. 6.

26 Vict. c. 52.

Notice to Parties.

19. Before proceeding to act in any case in the performance of his duties, the Port Warden shall give reasonable notice to all parties interested or concerned in the case.

Time for Notice.

20. All notices, requests, or requirements to, or from the Port Warden, must be given in writing and a reasonable time before action is required.

Certificates by Port Warden.

21. On the demand of any party interested, the Port Warden shall furnish certificates in writing, under his hand, of any matters of record in his office; he shall also furnish when required, copies of any entries in his books, or documents filed in his office.

Copies of Regulations.

22. The Port Warden shall supply, to every master of a vessel arriving in the Port of Montreal, a copy of the regulations relating to the office of Port Warden, once in each year.

Lloyd's Regulations to apply.

23. In all matters regarding surveys, &c., the Port Warden shall conform to, and be governed by the regulations of Lloyd's, so far as they are applicable to the Port of Montreal, and to the circumstances of the case.

Disputes between Port Warden and Parties, how decided.

24. Should any dispute arise between the Port Warden and any party interested, in any case where his presence has been required, either party may appeal to the Board of Examiners, and it shall be the duty of the Secretary of the said Board of Trade, on a requisition being presented to him to that effect, to summon forthwith a meeting of the said Board of Examiners who, or not less than three of them, shall immediately investigate and report on the cases submitted to them, and their determination, or that of a majority of them, made in writing, shall be final and conclusive.

Costs.

25. The party against whom the Examiners decide shall pay all the expenses, and the Examiners shall determine the amount of fees, or charges payable in each case, which shall never exceed 20 dollars.

His Certificates to be Evidence Primâ Facie.

26. All certificates issued under the hand of the Port Warden or his deputy, and sealed with the seal of his office, referring to matters recorded in his books, shall be received as *primâ facie* evidence of the existence and contents of such record in any court in this Province.

Tariff of Fees to be made by Council of Board of Trade—Maximum Fees.

27. The Council of the Board of Trade for the City of Montreal may, from time to time, establish a tariff of fees to be paid to the Port Warden for services performed by him and his deputies, by the masters or owners of sea-going vessels, and by others in respect of whom the duties of the said Port Warden are required to be performed; which tariff being first approved by the Governor in Council, shall be in force until repealed or altered by the said Council of the Board of Trade, as it may be at any time, with the approval of the Governor in Council; but such fees shall not exceed the rates hereinafter mentioned, that is to say:

Surveys and Certificates.

1. For every survey and certificate thereof by the Port Warden and his assistant, of the hatches and cargo of any vessel, or of the hull, spars, and rigging thereof, or the survey of damaged goods, a fee, including the certificate thereof, not exceeding eight dollars each, and such further sum, not exceeding five dollars, as may be payable to shipwrights, or other skilled persons employed by him;

Valuation and Inspection of Vessels.

2. For every valuation of a vessel for average, and every inspection of a vessel intended to load, a fee to be graduated according to the tonnage of such vessel, but not in any case to exceed ten dollars;

Settling Disputes.

3. For hearing and settling disputes, of which the Port Warden is authorised to take cognizance, and for the fees on appeal to the Board of Examiners, a sum to be graduated according to the value of the thing or amount in dispute, but in no case to exceed 20 dollars.

29 Vict. c. 59.

Additional Fees.

1. In addition to the fees authorised to be taken by the said recited Act for services performed by the Port Warden or his deputies, the following fees and charges shall be paid by the shippers of the following articles from the Port of Montreal, in sea-going vessels, that is to say

On Grain.

On all grain shipped from the said port, a fee not exceeding 25 cents for every 1,000 bushels, with a proportionate charge for every fractional quantity thereof.

On Flour.

On all flour shipped from the said port, a fee not exceeding one dollar for every 1,000 barrels, with a proportionate charge for every fractional quantity thereof.

On Ashes.

On all ashes shipped from the said port, a fee not exceeding two cents per barrel.

On other Articles—Proviso.

On all other articles not hereinbefore enumerated and shipped from the said port, a fee not exceeding 10 cents per ton weight or ton measurement, and the same fee on all quantities or parcels of such other articles exceeding in the whole shipment half a ton, though not amounting to one ton weight or measurement; but no fee to be charged in respect of such other articles for any shipment not amounting to half a ton, or for any fractional parts of a ton in any shipment exceeding one or more tons.

Fees may be Apportioned for Particular Services—Must be Approved by Governor in Council.

4. The foregoing maximum rates, comprehending the fees for the incidental proceedings, certificates, and copies, may be altered and apportioned, and the particular service distinguished, and the fee therefor assigned; and the person by whom the same shall be paid may be indicated in such way as the Council of the Board of Trade may from time to time appoint; and all rates and fees so established shall be subject to the approval of the Governor in Council, who shall have power, from time to time, to reject or modify and alter such fees and rates.

Port Warden to keep Account of Fees—as to Disputes touching Fees.

3. The Port Warden shall record all fees received under this Act, and make annual return thereof, in the same manner as provided by the 4th Section of this Act, and the 24th and 25th Sections of this Act shall apply to any dispute arising between the Port Warden and any shipper from whom fees are claimed under this Act.

Board of Trade may fix a Salary for the Port Warden instead of Fees.

4. The Board of Trade may, if they see fit, at any time, fix and appoint a salary to the Port Warden, to include his own remuneration and that of his deputies and his expenses of office or otherwise, as may be arranged; and for any period during which the Port Warden shall be paid by salary, such balance as may appear by his certified annual return, to be in his hands over and above his salary (or over and above his salary, that of his deputies and his expenses of office, if the same are not included in his salary), shall be forthwith paid by the said Port Warden to such person as the Board of Trade shall depute to receive the same.

Penalties for Infractions of 26 *Vict. c.* 52; *Recovery.*

Every such penalty as aforesaid shall be recoverable in the manner prescribed by the interpretation Act in cases where penalties are imposed, and the recovery is not otherwise provided for.

The

36 Vict. c. 11, s. 7.

The whole of any pecuniary penalty imposed by this Act shall belong to the Crown, and shall be paid over to the Receiver General by the officers or persons receiving it, and shall be appropriated in such manner as the Governor General in Council may direct. *See* Amendment of 1873, Sect. 7.

36 Vict. c. 11, s. 6.

Whenever the Port Warden is mentioned in any provision of the Acts, such provision shall always be understood to apply to the Deputy Port Warden.

37 Vict. c. 33, s. 2.

Yearly Report to Minister of Marine.

The said Port Warden shall yearly, within seven days after the 1st day of January, transmit to the Minister of Marine and Fisheries, a report of the business done in his office, and of his receipts and expenditure in respect thereof, in such manner and form as the Minister may direct.

RULES and Bye-Laws of the Office of Port Warden of the Harbour of Montreal.

Section I.—General Regulations.

1. Every master of a vessel on arriving in port from any place not within the limits of inland navigation, shall (in order to enable the Port Warden to grant the necessary certificate for the vessel's clearance at the Custom House), proceed to the Port Warden's office, and make a report of his vessel and cargo, and receive a copy of these rules and bye-laws.

2. Any party interested and objecting to the application by the Port Warden of these regulations, can obtain an investigation by the Board of Examiners, by requisition to the Secretary of the Board of Trade, and their decision shall be final and conclusive. The party appealing to them shall pay the fees and charges of the investigation, not, however, to exceed 20 dollars, if the Board of Examiners so decide.

3. The Port Warden shall keep in his office records in full of all his proceedings, together with statements of the results of all examinations and inquiries made by him, which records may be inspected during business hours by any parties interested. He shall keep on record all certificates granted by him, and grant duplicates of the same as hereafter provided, on payment of the regular fee.

4. All notifications and requests to the Port Warden must be made at his office in writing, and duly entered by the Port Warden in a book to be kept for that purpose.

5. The Port Warden, when requested in writing by the parties interested, shall arbitrate upon any dispute between the master or consignee of any ship or vessel, and any proprietor, shipper, or consignee of cargo. He shall also, when required, estimate the value and measurement of any vessel, when the same is disputed or otherwise needed.

6. The Port Warden may in any case where he thinks it right and necessary, initiate proceedings and hold surveys, and obtain process, as if required by the parties concerned; and whenever the Port Warden is mentioned in these rules and bye-laws, it shall also always be understood to apply to any Deputy Port Warden who may be appointed.

Section II.—Regulations regarding Vessels Inwards.

7. Any vessel arriving in port can have its hatches examined and opened by the Port Warden, and should they be opened by any other person, and any portion of the cargo be found to be damaged, "these facts shall be *primâ facie* evidence that such damage occurred in consequence of improper stowage or negligence on the part of the persons in charge of the vessel: and such default shall, until the contrary be shown, be chargeable to the owner, master, or other person interested as part owner of the said vessel."

8. The master of any vessel which has broken bulk for the purpose of lightening, or other necessary purposes, previous to her arrival, shall immediately on the discovery of any damaged cargo notify the Port Warden, and proceed to hold a survey on the same, in the manner prescribed by law, before the same shall be moved out of the place in which it was originally stowed.

9. The

9. The Port Warden on being notified and requested by any of the parties interested, shall proceed on board of any ship, steamer, or other vessel, or to any warehouse, dwelling, or wharf, and examine the condition or stowage of any cargo, and any goods damaged, or said to have been damaged on board of any vessel, and examine and ascertain the cause of such damage. He shall also have cognisance of all surveys of vessels or cargoes damaged, and on payment of the regular fee shall give certificates of such surveys.

10. The Port Warden shall, when required, be surveyor on any vessel which may have suffered wreck or damage, or which shall be deemed unfit to proceed on her voyage; he shall examine the hull, spars, rigging, and all appurtenances thereof, shall specify what damage has occurred, record in the books of his office a full and particular account of all surveys held on such vessel; he shall call to his assistance, if necessary, in such survey one or more carpenters, sailmakers, riggers, shipwrights, or other persons skilled in their profession, who shall each be entitled to a fee not exceeding two dollars for the first survey, and one dollar for each subsequent one on which their services may be required, to aid him in the examination and survey, but no such surveyor must be interested in the case; the Port Warden shall also, if required, be surveyor of the repairs necessary to render such vessel seaworthy, and his certificate that these repairs have been properly made, shall be evidence that the vessel is seaworthy.

11. No goods, vessels, or other property shall be sold as damaged for account of underwriters, unless a regular survey and condemnation has previously been had, and the Port Warden shall in all such cases be one of the surveyors.

12. It shall be the duty of every auctioneer making a sale of any vessel condemned, or ships' materials, or goods damaged on board a ship or vessel, whether seagoing or of inland navigation, sold for benefit of underwriters or others concerned, in the city of Montreal, to file a statement of the same at the office of the Port Warden within 10 days after such sale. No underwriter's sale shall take place until after at least two days' public advertisement, in not less than two English newspapers and one French newspaper in the city of Montreal, and such sale shall not be at an hour earlier than 12, nor later than three o'clock in the day.

Section III.—Regulations affecting Vessels Outwards.

13. The following scale is the limit to which ships of ordinary build should be laden, subject, however, in all cases, to the judgment of the Port Warden.

Vessels from	12 ft.	to	14 ft.	depth of hold	to have	$2\frac{1}{2}$ inches
„	„ 12 „	to	17 „	„	„	$2\frac{3}{4}$ clear side
„	„ 17 „	to	20 „	„	„	3 to each
„	„ 20 „	to	22 „	„	„	$3\frac{1}{4}$ foot depth
„	„ 22 „	to	26 „	„	„	$3\frac{1}{2}$ of hold.

14. No vessel over 450 tons register shall be permitted to load an entire cargo of grain in bulk—oats excepted. All vessels loading grain will be required to have a bulkhead not less than six feet from the bow and one foot from the stern.

15. No vessel will be permitted to take more than 12,000 bushels of grain in bulk without a bulkhead to divide it into compartments, no compartment to contain more than 12,000 bushels.

16. All vessels (loading grain in bulk) of 400 tons, to be platformed or dunnaged not less than nine inches at the kelson, and 12 inches at the bilge; ships of 1,200 tons, 12 inches at the kelson and 15 inches at the bilge, including the thickness of lining boards; other sized ships in proportion; and lined with well-seasoned timber. Vessels under 600 tons register to have two inches of dunnage, over that tonnage to have three inches of dunnage, between the grain and other cargo. All vessels to be dunnaged and lined to the satisfaction of the Port Warden.

17. The master of any vessel intending to load grain in bulk, for any port not within the limits of inland navigation, shall, before taking in any of such grain, notify the Port Warden from time to time, while the different chambers are being prepared, to survey and inspect the said vessel; the Port Warden in such case shall ascertain whether such vessel is in a fit state to receive and carry the cargo intended for her to its destination; he shall record in his books the condition of the vessel; if he finds she is not fit to carry the cargo in safety, he shall state what repairs are necessary to render her seaworthy; before beginning to load each chamber, he shall be careful to see that such chamber is in a fit and proper state and condition to receive grain, and should he deem it necessary, he may order that such chamber be properly dunnaged and lined, and provided with shifting boards, or, that the same be dunnaged or lined or provided with shifting boards; and he shall see that the boards and plank used for these purposes are properly seasoned; he shall examine the pumps and see that they are properly lined and dunnaged; he shall enter in the books in his office all particulars connected with these surveys and grant the necessary certificates.

18. The pumps of all vessels loading grain in bulk, and when necessary the masts to be cased in; the casing round the pump to be large enough to allow a man to pass down into the well not less than 4 feet × 5 feet; the casing to be of good workmanship, and of seasoned wood, so that the grain may not pass through. There must be also proper shifting boards on each side, which must be well secured to the stanchions, and the stanchions themselves well secured to the beams and kelson. Shifting boards to extend to at least two-thirds of the depth of the grain space, and to be provided also whenever grain in bags is laden between decks.

19. Great care should be taken to well fill the vessel with bulk grain under the decks, and it is advisable when vessels are filling up, that no more grain should be put on board than the number of labourers employed are able to trim and properly stow.

20. The following regulations with reference to the quantity of grain, in bulk, which vessels may be allowed to take in proportion to their tonnage, is to be observed in future, subject, however, to the judgment of the Port Warden:—

450 at	500	tons—42	bushels of	60 lbs.	per register ton.
500 „	550	„ —41	„	„	„
550 „	600	„ —40	„	„	„
600 „	650	„ —38	„	„	„
650 „	700	„ —37	„	„	„
700 „	750	„ —35	„	„	„
750 „	800	„ —34	„	„	„
800 „	850	„ —33	„	„	„
850 and upwards—32			„	„	„

Should the vessel's carrying capacity in the lower hold exceed the scale, enough may be taken to raise the grain to not over six inches above the beams, provided always that the prescribed draught of water, when the vessel is loaded, be not exceeded.

Oats may be carried in bulk to any extent, irrespective of the tonnage of the ship, but subject to such regulations with reference to dunnage, lining, and shifting boards, as the Port Warden may prescribe.

21. The master of any vessel wholly or partly laden with grain for any port not within the limits of inland navigation, shall, before proceeding on his voyage, or clearing at the Custom House for the same, notify the Port Warden, whose duty it shall then be to proceed on board such vessel and examine whether she is in a fit state to proceed to sea or not; if she is found unfit, the Port Warden shall state in what particular, and on what conditions only she will be deemed in a fit state to leave, and shall notify the master not to leave the port until the required conditions have been fulfilled; and in the case of the master refusing or neglecting to fulfil the same, the Port Warden shall notify the Collector of Customs, in order that no clearance may be granted for the vessel until such required conditions have been fulfilled, and a certificate thereof granted by the Port Warden or his deputy.

22. No officer of customs shall grant a clearance to any vessel, wholly or partly loaded with grain, for the purpose of enabling her to leave the Port of Montreal for any port not within the limits of inland navigation, unless nor until the master of such vessel produce to him a certificate from the Port Warden or his deputy, to the effect that all the requirements of the 17th clause of these regulations have been fully complied with, if such grain be laden in bulk; nor unless or until such master produces to him a certificate from the Port Warden or his deputy that all the requirements of the 21st clause of these regulations have been fully complied with, if such vessel be wholly or partly laden with grain; and if any vessel, wholly or partly laden with grain, attempts to leave the Port of Montreal without a clearance, for any port not within the limits of inland navigation, any officer of customs or any person acting under direction of the Minister of Marine and Fisheries, or the chief officer of the river police, may detain such vessel until such certificate is produced to him.

Section IV.—Penalties and Fees.

23. The penalty for any and every infraction or breach of the 8th clause of these regulations shall be the sum of 40 dollars; and for every infraction or breach of the 17th clause of these regulations the sum of 800 dollars; and for every infraction or breach of the 12th clause of these regulations, the sum of 20 dollars; and every and each such penalty as aforesaid shall be recoverable in the manner prescribed by the Interpretation Act, in cases where penalties are imposed, and the recovery is not otherwise provided for.

24. The following fees shall be payable to the Port Warden by the parties employing him; but in case of a survey of cargo alleged to be improperly stowed, the party in the wrong shall pay the fee.

Fees.

	$.	cts.
First survey of hatches and (or) cargo, including certificate - -	1	00
Every subsequent survey - - - - - - - - -	0	50

Every

Fees—*continued.*	$	cts.
Every survey on damaged goods on wharf or in store with certificate value 200 dollars and under	1	00
Over that value	2	00
Survey of hull and (or) sails, spars and rigging of any vessel damaged or arriving in port in distress	5	00
Every subsequent survey	1	00
Survey to ascertain if ship is seaworthy with certificate	2	50
Survey that repairs ordered if not seaworthy have been made, with certificate	2	00
Valuation of a vessel for average under 500 tons	5	00
500 to 1,000 tons, 1·00 dollar per 100 tons, but not to exceed	7	50
Survey of cargo reported to have shifted, with certificate	4	00
Measurement of a vessel's beam for towage	1	00
Extra copies of certificate, when required	0	25
For inspection of the lining of a vessel intending to load grain:—		
200 tons and under 400	3	00
400 „ „ „ 600	4	00
600 „ „ „ 800	5	00
800 tons upwards	6	00
General superintendence of loading on vessels which do not pay fees otherwise	5	00
Certificate of general loading where fees have not otherwise been paid to the amount of 3·00 dollars	1	00
Settling disputes between master and consignee of ship and owner of cargo	2	50
For certificate under seal or copy of record or document	1	00
Every extra copy of every certificate	0	25
For the appeal of any case from the Port Warden to the Board of Examiners, payable by the party against whom the decision is given—in no case more than	20	00

Table of Export Fees

To be Collected by the Port Warden of Montreal, under the Act 29 Vict. c. 59, 1865, in Amendment of the Act 26 Vict. c. 52, 1863, and approved by His Excellency the Governor General in Council, on shipments by sea-going Vessels loaded for Ports other than those in British North America.

On Grain.	$.	cts.
For every 1,000 bushels, and every proportionate quantity of wheat and peas	0	15
Ditto - - ditto - - ditto - - barley - -	0	12
Ditto - - ditto - - ditto - - oats - -	0	10
Ditto - - ditto - - ditto - - Indian corn -	0	10

On Flour and Meal.		
On every 1,000 barrels, and proportionate charge for every fractional quantity thereof	0	75
Ashes per barrel	0	02
Apples per barrel	0	00¼
Coal oil per barrel	0	00½
Ores and minerals per ton (ballast excepted)	0	04
Oil cake per ton	0	03
Phosphates per ton	0	02
Lumber, and all other descriptions of timber, per ton weight	0	02
On other articles not herein enumerated, being natural productions, per ton	0	02
On other articles not herein enumerated, and shipped from this port, being manufactured in whole or in part, per ton weight or measurement	0	06

And the same on all quantities or parcels of such other goods exceeding in the whole shipment half a ton, though not amounting to one ton weight or measurement; but no fee to be charged in respect to such other articles for any shipment not amounting to half a ton, or any fractional part of a ton, in any shipment exceeding one or more tons.

(By order of the Board),
A. Sclater,
Port Warden.

Port Warden's Office, Montreal,
May 1874.

— No. 5. —

(M. 7984.)

Colonial Office to Board of Trade.

Sir, Downing-street, 25 May 1875.

I AM directed by the Earl of Carnarvon to transmit to you, for the consideration of the Board of Trade, a copy of a Despatch from the Governor General of Canada, enclosing a Report of a Committee of the Privy Council relating to the objections taken by the Board of Trade in your letter of the 4th of February last to the Acts of the Canadian Legislature, entitled respectively—

See ante, No. 4.

37 Vict. c. 30. "An Act further to amend the Act respecting the Inspection of Steamboats;" and

37 Vict. c. 32. "An Act to provide for the Appointment of Port Wardens at certain Ports of the Dominion."

I am to observe that an extract only of your letter of the 4th of February last was communicated to the Governor General, as shown in the Despatch, of which a copy is annexed, and I am to request that you will move the Board of Trade to inform Lord Carnarvon whether the explanations now forwarded remove their Lordships' objections to the Acts in question.

I am, &c.

The Assistant Secretary, (signed) *W. R. Malcolm.*
Marine Department, Board of Trae.

— No. 6. —

(M. 7984).

Board of Trade to Colonial Office.

Board of Trade, Whitehall Gardens,

Sir, 26 June 1875.

I AM directed by the Board of Trade to acknowledge the receipt of your letter of 25th ultimo, forwarding a Despatch from the Governor General of Canada, with a Report of a Committee of the Privy Council, relative to certain objections raised by the Board of Trade to two Acts of the Canadian Legislature.

With regard to the first of these Acts, "An Act further to amend the Act respecting the Inspection of Steamboats;" as this Act is stated only to apply to British, Canadian, or Foreign vessels engaged in the passenger coasting trade of Canada, and not to "British or Foreign ships trading between Canada and the United Kingdom, or between Canada and Foreign Countries," the Board of Trade see no reason why this Act should not come into operation.

With regard to the second Act, entitled "An Act to provide for the Appointment of Port Wardens at certain Ports of the Dominion;" looking to the views expressed in the Report of the Committee of the Privy Council, the Board of Trade are of opinion that this Act may also be sanctioned.

At the same time they adhere to the opinions expressed in their former letter as to the extensive powers which this Act confers on Port Wardens, and request you to move the Earl of Carnarvon to point out to the Canadian Government that should the exercise of these powers be found to clash with Imperial interests, Her Majesty's Government must claim the right to interfere for their protection.

I am, &c.

The Under Secretary of State, (signed) *Thomas Gray.*
Colonial Office.

— No. 7. —

The Earl of *Carnarvon* to the Officer Administering the Government of Canada.

Sir, Downing-street, 8 July 1875.

In reply to the Earl of Dufferin's Despatch, No. 130, of the 6th of May, I transmit to you a copy of a further letter from the Board of Trade in regard to the provisions of the Acts of the Canadian Parliament, Nos. 30 and 32 of 1874, entitled respectively, "An Act further to amend the Act respecting the inspection of steam-boats," and "An Act to provide for the appointment of Port Wardens at certain ports of the Dominion." See ante, No. 6.

Her Majesty will not be advised to exercise her power of disallowance in respect of either of these Acts, but I trust that the practical operation of the Act, No. 32, will not be found open to the objections referred to by the Board of Trade.

I have, &c.
(signed) *Carnarvon.*

The Officer Administering the Government of Canada.

— No. 8. —

(M. 5794.)

Colonial Office to Board of Trade.

Sir, Downing-street, 14 April 1875.

I am directed by the Earl of Carnarvon to request that you will inform the Board of Trade that a telegram has been received from the Governor General of Canada to the effect that the Dominion Government regard as very objectionable the amendments proposed by Mr. Plimsoll in the Merchant Shipping Bill now before Parliament; and request that the measure may be delayed until they shall have had time to communicate their views.

Lord Carnarvon hopes that an opportunity will be afforded to the Canadian Government of stating their objections before the Bill is disposed of.

I am, &c.
(signed) *W. R. Malcolm.*

The Secretary to the Board of Trade.

— No. 9. —

(M. 5794.)

Board of Trade to Colonial Office.

Board of Trade, Whitehall Gardens,
Sir, 26 April 1875.

I am directed by the Board of Trade to acknowledge the receipt of your letter of the 14th instant, stating that the Government of the Dominion of Canada regard as very objectionable the amendments proposed by Mr. Plimsoll in the Merchant Shipping Bill now before Parliament, and request that the measure may be delayed until they shall have had time to communicate their views.

In reply, I am to state, for the information of the Earl of Carnarvon, that the Board will be very glad to have the observations of the Canadian Government on the subject, and that the Government Bill will not come on until two or three weeks after Whitsuntide.

I have, &c.
(signed) *G. J. Swanston.*

The Under Secretary of State, Colonial Office.

— No. 10. —

The Earl of *Dufferin* to the Earl of *Carnarvon*.

Canada.

My Lord, Government House, Ottawa, 23 April 1875.

On the 12th instant I informed your Lordship by telegraph that my Government entertained great objections to certain amendments to the Merchant Shipping Act reported to have been introduced in the House of Commons by Mr. Plimsoll, and that they asked for the good services of Her Majesty's Government in delaying the passage of such proposals until time was afforded for a more detailed remonstrance to be sent to England.

I have now the honour to enclose a copy of a Report of a Committee of my Privy Council on that subject, which I have no doubt will receive due consideration at your Lordship's hands.

I have, &c.
(signed) *Dufferin.*

The Right Honourable the
Earl of Carnarvon,
&c. &c. &c.

Enclosure in No. 10.

Copy of a Report of a Committee of the Honourable the Privy Council, approved by His Excellency the Governor General, on the 22nd April 1875.

The Committee of Council have had under consideration a Report of the 20th April 1875 from the Honourable the Minister of Marine and Fisheries, having reference to the Reports to Council of his predecessor, of the 10th and 14th May 1873, recommending that Her Majesty's Government be requested to urge upon Parliament the exemption of Canadian shipping from the operation of the Plimsoll Bill, as the passage of such Bill might injuriously affect Canadian shipping, and hold out inducements to transfer a large portion of the tonnage of Canada to foreign flags; and having also reference to his Report to Council, dated the 5th instant, stating that he had received information that a Bill was again before Parliament relating to the same subject, recommending that the British Government be requested by telegram to urge on the Imperial Parliament the exemption of Canadian shipping from the operation of such Bill, as he understood it might seriously affect the interests of such shipping.

The Minister states that, although he has not been able to see a copy of the amendments proposed by Mr. Plimsoll to the Imperial Merchant Shipping Bill, he has seen notices of such proposed amendments in the newspapers, from which it appears that such amendments, if carried, would seriously affect the interests of Canadian ships, while in the United Kingdom, by subjecting them to compulsory inspection and restrictions with reference to deck-loading, freeboard, and seaworthiness.

That as the shipping registered in Canada now amounts to 6,930 vessels, measuring 1,158,363 tons register, of an estimated value of 34,750,890 dollars, a large portion of such shipping being seagoing vessels, trading to and from the United Kingdom, he is of opinion that it is very important, where such a large Canadian interest is affected, that no Imperial legislation should be enacted affecting such interest until the Canadian Government has been afforded an opportunity of expressing an opinion on such proposed legislation, which would affect such a large amount of capital as is invested in this particular interest.

That with reference to deck loads, the Canadian Parliament has already considered this subject, and has provided legislation on it, restricting deck loads on vessels leaving Canada during certain seasons of the year. A copy of the Act is herewith annexed.

That with reference to freeboard and overloading with grain and other cargoes, at Montreal, the principal grain-loading port in the Dominion, Parliament has already provided legislation on this subject, and the restrictions imposed have been found to be most advantageous to the safety of life and property. A copy of the Act is also herewith annexed.

That similar restrictions are also imposed at Quebec, and a General Port Wardens Act was past last year, extending the principles of the Montreal and Quebec Acts to such ports in the Dominion as may be brought under it by an order of the Governor in Council.

That the ports of Halifax, Nova Scotia, and Victoria, British Columbia, have recently been brought under the operation of this Act, a copy of which is herewith annexed.

That

That with reference to the general question of seaworthiness of Canadian ships, he remarks that nearly all the seagoing vessels of Canada are classed either in British Lloyd's, French Bureau Veritas, or American Lloyd's, which is a good guarantee of their strength and seagoing qualities, and he is now considering the propriety of recommending the adoption of rules and regulations for the voluntary inspection and classification of Canadian ships by the Canadian Government, provided for in the 54th section of the Canadian Act, 36 Vict. c. 128, in order that Canada might have the advantage of possessing a national institution of its own for the classification of its shipping; the rapid growth of its mercantile marine and the large amount of Canadian capital now invested in this interest appearing to require such additional facilities for the classification of its shipping.

The Minister therefore recommends that Her Majesty's Government be requested to urge on Parliament the exemption of Canadian shipping from the operation of any of the provisions contained in the amendments proposed by Mr. Plimsoll until the Canadian Government and Canadian shipowners have had an opportunity of considering such provisions.

In the event of any compulsory official inspection being imposed in the United Kingdom on British ships generally, he presumes the classification of Canadian ships by officers of the Government of Canada, if such a system is adopted, would be accepted by the authorities of the British Government as equivalent to official inspection of the United Kingdom, in the same manner as the official examination of masters and mates by the Government of Canada is accepted by the British Government as equivalent to the official examination of such persons by the officers of the Imperial Board of Trade.

The Committee concur in the foregoing Report, and recommend that a copy of this Minute and documents appended be transmitted to Her Majesty's Secretary of State for the Colonies.

Certified,

(signed) *W. A. Himsworth,*
Clerk Privy Council, Canada.

— No. 11. —

(M. 7311.)

Colonial Office to Board of Trade.

Sir, Downing-street, 11 May 1875.

With reference to your letter of the 26th of April, I am directed by the Earl of Carnarvon to transmit to you, to be laid before the Board of Trade, a copy of a Despatch from the Governor General of Canada, enclosing a Report of a Committee of the Privy Council relating to the Merchant Shipping Bill now before Parliament, and to certain proposed amendments thereto.

See ante, No. 10.

I am, &c.

The Assistant Secretary, (signed) *W. R. Malcolm.*
Marine Department, Board of Trade.

— No. 12. —

(M. 11,185.)

Colonial Office to Board of Trade.

Sir, Downing-street, 31 July 1875.

With reference to the notice given by Mr. Reed, M.P., of his intention to move an instruction to the Committee on the Unseaworthy Ships Bill, I am directed by the Earl of Carnarvon to request that you will remind the Board of Trade of the desire of the Canadian Government, as conveyed in the letter from this Department of the 11th May, that any Imperial legislation on the subjects referred to in Mr. Reed's notice of motion should not be made applicable to Canadian shipping until the Canadian Government and shipowners have had an opportunity of considering such provisions.

See ante, No. 11.

Lord Carnarvon believes that the Board of Trade are aware that Mr. William Smith, the Canadian Deputy Minister of Marine and Fisheries, is in this country, and he may be able to give some explanation of the views of his Government on a question as to which Lord Carnarvon does not desire to offer an opinion.

I am, &c.

The Assistant Secretary, (signed) *R. H. Meade.*
Marine Department, Board of Trade.

— No. 13. —

(M. 11,185.)

Board of Trade to Colonial Office.

Board of Trade, Whitehall Gardens,
Sir, 4 August 1875.

I AM directed by the Board of Trade to acknowledge the receipt of your letter of the 31st ultimo, calling their attention to the fact that Mr. William Smith, the Deputy Minister of Marine in Canada, is at the present time in this country, and suggesting, with reference to your letter of the 11th May, that as it is undesirable that any Imperial legislation on the subjects referred to in Mr. Reed's notice of motion should be made applicable to Canadian shipping until the Canadian Government have had an opportunity of expressing their views, it might be in Mr. Smith's power to afford information on the subject.

In reply, I am to state, for the information of the Earl of Carnarvon, that Mr. William Smith has had an interview with the President.

I have, &c.
The Under Secretary of State, (signed) *H. G. Calcraft.*
Colonial Office.

— No. 14. —

(M. 14,083.)

Colonial Office to Board of Trade.

Sir, Downing-street, 24 September 1875.

I AM directed by the Secretary of State for the Colonies to transmit to you, to be laid before the Board of Trade, extracts from two Canadian newspapers, which have been sent to this Department by Mr. Gilkison, of Brantford, Ontario, in regard to the shipping of grain from Canada in bulk as affected by the Imperial Merchant Shipping Act of last Session.

I am, &c.
The Assistant Secretary, (signed) *Robert G. W. Herbert.*
Marine Department, Board of Trade.

Enclosure in No. 14.

EXTRACT from the "Montreal Gazette."

"SHIPPING GRAIN IN BULK.

"MR. HENRY FRY, of Quebec, one of our best Canadian authorities on shipping matters, writes to the 'Montreal Gazette' respecting one particular feature of the new English Act, which may seriously affect the business of shipping grain from Canada to England. From the debates in the House of Commons, it appears that on 3rd August the Chancellor of the Exchequer accepted an amendment of Mr. Read's 'Prohibiting the carriage, in British ships, of grain in bulk,' with an addition, 'which limited the prohibition to cases in which more than one-third of the cargo consisted of grain;' and another amendment was afterwards accepted 'providing that a British ship, carrying more than one-third of a grain cargo in bulk, should not be deemed seaworthy;' and in the debate of the 5th of August another amendment was carried, providing 'that the clause should not apply to any grain shipped before the 1st of October 1875.' Unless, therefore, says Mr. Fry, a large supply of grain bags are procured during September, it will be practically impossible to ship grain from Montreal in British ships after the 1st October. And he thus concludes: 'I say nothing at present about the policy of a sweeping measure of this sort, the product of an unreasoning panic, but it is evident that it will act with tremendous force against British shipowners, throw the bulk of the British grain-carrying trade into the hands of foreigners, and tell against Montreal and in favour of New York, where a large proportion of the carrying trade is done by Germans, Norwegians, and Italians, who will thus be in a position to carry grain at a cheaper rate than British ships.'

"The

"The danger to Canadian interests foreseen by Mr. Fry is traceable to the same source as another which was the subject of debate in the Dominion Parliament last Session. When it was proposed to prohibit the carrying of deck loads, the objection was made that if this were done trade would be lost to Canadian vessels affected by the prohibition, and would go to foreign vessels, which our laws could not control. At bottom the trouble is this, that if any nation, from motives religious, moral, or philanthropic, puts restrictions upon the way in which her own traders and manufacturers may carry on their work, then other nations that care for no such motives, but only for the pursuit of gain by the shortest road to it, will have a tremendous advantage. When Great Britain abolished slavery in her own possessions, she made far more sacrifice than that of the twenty millions sterling indemnity paid to British slave-owners; she voluntarily loaded the business of sugar production in her colonies with a weight which gave a sweeping advantage to all sugar-producing countries that still retained the material strength along with the moral curse of slavery. Similarly, a nation having a ten hours' factory law is at a material disadvantage as compared with one whose factory operatives work twelve hours. If we wish to be a humane, moral people, and to be careful of the life and happiness of the poorest amongst us, well and good; but let us understand that the foreign nation that cares for none of these things will, other things being equal, beat us in cheapness of production and carriage. True, Great Britain holds her place in spite of her anti-slavery and other humane legislation, but that is on account of her enormous advantages in material respects not thereby affected—in her large capital, abundance of coal, iron, and mechanical skill, and in the grasp which her merchants have long had and still retain of the world's markets, both near and distant. Cuba, with slavery, will make sugar cheaper than Jamaica can without it; and foreign vessels will take cargoes from British vessels if the former are free to carry grain in bulk, and deck loads, with no conditions as to their being seaworthy, while the latter are held to good behaviour, as we may say, by the provisions of a stringent Shipping Act.

"The difficulty being thus stated, how is it to be got over? Clearly we cannot go back to slavery, nor yet can we put down Mr. Plimsoll, and determine that shippers may load and sail as they please, no matter what the consequences may be. We cannot deliberately resolve that freights must be had, and that shipping profits must be made, at no matter what sacrifice of human life. There remains the alternative of two courses. We must either pass navigation laws applying to foreign vessels at our own ports, and impose differential duties on goods both coming and going by foreign vessels, or we must negotiate with foreign nations and get them to adopt and enforce shipping laws of equal stringency with our own. If they agree to this, the latter will be our easiest way, but if they refuse are we prepared to adopt the former in self-defence? It is for our legislators and men of business to consider well what answer they would give to this question."

"The Shipping Act.

"We print this morning a letter from Mr. Henry Fry, of Quebec, upon a subject of very great interest to this community. Until the text of the Act recently passed by the British Parliament has been received, it is impossible to say whether Mr. Fry's fears are well founded. Our own impression is that they are but too well founded, and that in this legislation the Port of Montreal has received a very serious blow. Our readers will remember that we discussed this question last spring, and pointed out the danger that was imminent if some steps were not taken to prevent the legislation extending to Canada. Mr. Mitchell, when Minister of Marine and Fisheries, had provided against such a contingency. By arrangement with the Imperial authorities, he had secured an agreement by which Canadian vessels, or vessels loading in Canada, would be exempted from the operations of the Imperial statute, upon condition that the Canadian Parliament would pass an Act regulating the loading and classification of ships. That Act was passed, with a clause empowering the Governor in Council by Proclamation to bring it into force, this being necessary in consequence of the machinery required for carrying it into effect. Had Mr. Mitchell remained at the head of the department, the Act would have been in operation a year ago, and we should have been saved the evil to which Mr. Fry refers. But with the carelessness and indifference which has rested like a pall upon this department under its present management, no steps have been taken to give effect to the law. During last Session Mr. Mitchell and Mr. Goudge both called the attention of Ministers to the subject, and the First Minister and Mr. Smith each stated that the Government was at that moment in correspondence with the Imperial Government on the subject. When the papers asked for were brought down, near the close of the Session, it was found that there was no truth in these assurances, no correspondence having taken place since Mr. Mitchell left office. About a fortnight after the Session closed, the Ministerial papers announced that a despatch on the subject had been sent to the Colonial Office. Whether this statement was true or not it is impossible to say; but we greatly fear that the criminal indifference to the interests of the shipping and commerce of the Dominion which characterises this Government, has subjected us to evils which no one better than Mr. Fry knows how to appreciate, and which he refers to in the letter which we print in another column, and to which we direct the reader's attention."

— No. 15. —

(M. 14,083.)

Board of Trade to Colonial Office.

Board of Trade, Whitehall Gardens,
Sir, 4 October 1875.

I AM directed by the Board of Trade to acknowledge the receipt of your letter of the 24th ultimo, enclosing extracts from Canadian newspapers, speculating on the probably injurious effect, as regarded the Canadian grain trade, of certain Amendments proposed in Committee on the Merchant Shipping Bill, 1875, if those Amendments should become law.

In reply, I am to transmit to you, to be laid before Lord Carnarvon, a copy of the Merchant Shipping Act, 1875, from which it will be observed that the Amendments complained of were not embodied in the Act, or at least were modified so as not to interfere vexatiously with the Canadian grain trade, as Mr. Fry apprehended. I am to suggest that a communication to this effect may be made to Messrs. Gilkison and Fry.

I have, &c.
The Under Secretary of State, (signed) *Thomas Gray.*
Colonial Office.

— No. 16. —

The Earl of *Carnarvon* to the Earl of *Dufferin.*

My Lord, Downing-street, 7 October 1875.

I HAVE the honour to transmit to your Lordship the enclosed copy of a letter from the Board of Trade on the subject of some newspaper extracts, forwarded to this Department by Mr. Gilkison, of Brantford, Ontario, relating to certain Amendments proposed in Committee on the Merchant Shipping Bill, 1875.

See *ante*, No. 15.

I have, &c.
Governor General the Right Honourable (signed) *Carnarvon.*
The Earl of Dufferin, K.P., K.C.B.
&c. &c. &c.

— No. 17. —

The Earl of *Carnarvon* to the Officer Administering the Government of Canada.

CIRCULAR.

Sir, Downing-street, 22 October 1875.

WITH reference to my predecessor's Circular Despatch of the 3rd December 1873, I transmit herewith, for your information, and for general publication in the Colony under your Government, a copy of a letter from the Board of Trade, enclosing a copy of "The Merchant Shipping Act, 1875."

2. I request that, in accordance with the desire expressed by the Board of Trade, you will furnish me with an immediate report of any case in which grain, &c., is shipped in British vessels in contravention of the Act, and in such a manner as to endanger human life.

3. I shall be obliged if you will favour me with any observations which may occur to you with reference to the application of the several provisions of this Act to the Colony under your Government.

I have, &c.
The Officer Administering the (signed) *Carnarvon.*
Government of Canada.

Enclosure in No. 17.

Board of Trade to the Colonial Office.

Board of Trade, Whitehall Gardens,
Sir, 11 August 1875.

I AM directed by the Board of Trade to enclose a copy of "The Merchant Shipping Act, 1875," and to request your attention to the 3rd section of this Act, relating to the carriage of grain and other seeds or nuts in British ships.

I am to suggest that a copy of this Act should be sent to the Governors of all Colonies from which grain is shipped.

I am further to suggest that instructions may be given to cause an immediate report to be sent to the Board of Trade of any case in which grain, &c., is shipped in British vessels in contravention of the Act, and in such a manner as to endanger human life.

I have, &c.
The Under Secretary of State, (signed) *Thomas Gray.*
Colonial Office.

— No. 18. —

The Earl of *Dufferin* to the Earl of *Carnarvon.*

Canada.

My Lord, Ottawa, 10 February 1876.

IN reply to your Lordship's Circular Despatch of the 22nd of October last on the subject of the Merchant Shipping Act, 1875, I have the honour to enclose a copy of a Minute of my Privy Council, to which is attached a Report from the Minister of Marine and Fisheries.

2.

2. Your Lordship will observe that, in reference to the desire expressed by your Lordship to be furnished with a Report of any cases in which the Merchant Shipping Act, 1875, had been contravened in Canada, the Minister of Marine states that as the Canadian Acts by which the Merchant Shipping of Canada is regulated are not only in accordance with the Imperial Act referred to, but are more stringent in their provisions, and are strictly enforced, it is not possible that such cases can have occurred. From this statement, however, are excepted those vessels which carry grain on inland Canadian waters, as they are not subject to the same inspection.

3. I shall wish especially to call your Lordship's attention to the representations made by the Minister of Marine in reference to the apprehensions felt by Canadian shipowners with regard to the disabilities under which it is believed that Canadian vessels as compared with vessels of foreign countries, will be placed by the operation of the Imperial Act in question; and I should feel much obliged if your Lordship, at your earliest convenience, would enable me to inform my Ministers of your opinion as to the desirability of their being represented in London by an agent in the manner suggested by the Minister of Marine; and your Lordship would also confer a favour upon me if, in consideration of the important bearing which the proposed legislation has upon Canadian interest, you could cause steps to be taken by which my Ministry, in accordance with their desire, might be put in possession of copies in advance of the Bill relating to merchant shipping, which it is intended to introduce this year into the Imperial Legislature.

I have, &c.
The Right Honourable The Earl of Carnarvon, (signed) *Dufferin.*
&c. &c. &c.

Enclosure 1, in No. 18.

COPY of a REPORT of a Committee of the Honourable the Privy Council approved by His Excellency the Governor General, on the 9th day of February 1876.

THE Committee of the Privy Council have had under consideration the Circular Despatch from the Right Honourable Her Majesty's Secretary of State for the Colonies, dated 22nd October 1875, transmitting a letter from the Board of Trade with copy of "The Merchant Shipping Act, 1875," and requesting to be furnished with an immediate report of any case in which grain, &c., was shipped in British vessels in contravention of the Act referred to, and in such manner as to endanger human life.

They have also had before them the report, hereunto annexed, from the Honourable the Minister of Marine and Fisheries, to whom the above-mentioned Despatch and its enclosures were referred, and they respectfully submit their concurrence therein, and advise that a copy thereof and of this Minute be transmitted for the information of Lord Carnarvon.

Certified,
(signed) *W. A. Hemsworth,*
Clerk, Privy Council,
Canada.

Enclosure 2, in No. 18.

Ottawa, 8 February 1876.

THE undersigned has the honour to report to Council that he has had under consideration Despatch from the Earl of Carnarvon of the 22nd October last, transmitting a copy of a letter from the Board of Trade enclosing a copy of "The Merchant Shipping Act, 1875," and requesting to be furnished with an immediate report of any case in which grain, &c., was shipped in British vessels in contravention of the Act referred to, and in such manner as to endanger human life.

The undersigned begs to state that in all cases where grain is shipped in seagoing vessels at Montreal or Quebec, the principal grain-loading ports in the Dominion for countries abroad, it is loaded under the superintendence of the port wardens, as required by the Port Wardens Acts, copies of which, as well as a copy of "The General Port Wardens Act, 1874," are herewith accompanying. The Acts referred to contain the necessary provisions for the inspection of vessels and cargoes while loading, and have been found to work well, and are much more stringent and exact in details than the Merchant Shipping Act of 1875. Consequently vessels loaded at Montreal and Quebec under these Acts are loaded, not only in accordance with the provisions of the Merchant Shipping Act of 1875, but with many more precautions as regards safety.

Not printed.

The undersigned also observes that the Acts in question have been found satisfactory, and have tended in their operation to the safety of life and property, as, since they took effect, no loss has been reported of grain-laden vessels from the ports in question on account of unseaworthiness or improper loading, while in 1872, prior to their coming into operation, six steamships laden with grain were wrecked or foundered at sea on their passage from the St. Lawrence to Europe, it is believed, on account of their being overloaded or improperly stowed.

There is a class of vessels, however, which carry large quantities of grain in the inland Canadian waters, but as no officers have been appointed to inspect such vessels, the undersigned is not aware whether they have carried grain since the 1st October last in contravention of the Act. No such cases have been reported to his department.

With reference to the request of Lord Carnarvon to be favoured with any observations in regard to the application of the several provisions of the Merchant Shipping Act of 1875 to Canada, the undersigned remarks that there has been much excitement and uneasiness amongst Canadian shipowners relative to this Act, and to the prospect of further Imperial legislation next Session in respect to their seagoing vessels, a large portion of which are engaged in the carrying trade of the United Kingdom and foreign countries.

In the 2nd Section of the Act power is given to one-fourth of the seamen belonging to any British ship to have such ship detained by the surveyors of the Board of Trade, and the undersigned is of opinion that this power is too great to be exercised by so small a proportion of the crew, and that it should not be entrusted to a smaller number than one-third or one-half of the crew, especially as sailors when they first join a ship are frequently not in a fit state to form an opinion on such a subject.

With reference to the power of a Board of Trade surveyor to direct the unloading of a ship on account of alleged unseaworthiness of the hull, the undersigned is of opinion that such power should be modified, and that a certificate of classification by British Lloyd's, Liverpool Underwriters' Registry for iron vessels, Bureau Veritas, or by the Canadian Government

Government whenever a system of classification shall be established, shall be received as *primâ facie* evidence of the seaworthiness of the hull.

With reference to the 3rd Section of the Act, which applies to Canadian vessels in Canada, prohibiting the loading of grain, if exceeding one-third of the cargo, unless it is contained in bags, sacks, or barrels, or is secured from shifting by boards, bulkheads, or otherwise, the undersigned recommends that Canada shall be exempted from the operation of this section, as he has shown that the Canadian Legislature has already made much better provision for the loading of grain in seagoing vessels than is contained in this Act, and has provided the proper officers to superintend the loading of such vessels, and to certify them as seaworthy before they are allowed to proceed to sea. There are many Canadian and United States vessels engaged in carrying grain on the great inland lakes between the United States and Canada, and the effect of this section if carried out would be to render Canadian vessels liable to penalties from which United States vessels would be exempt; and as there is keen competition between Canadian and American vessels on the great lakes, this restriction on Canadian vessels would certainly turn the scale, and throw the carrying trade into the hands of the owners of United States vessels, a state of affairs which would not likely be submitted to by Canadian shipowners without complaint.

The undersigned is of opinion that no Imperial legislation should take place affecting the question of seaworthiness, or loading of Canadian vessels in Canadian waters. The Canadian Legislature is the proper authority to deal with such questions, and when it becomes necessary to legislate for the safety of Canadian vessels in Canadian waters, he has no doubt the Canadian Parliament will be quite ready to do so, as it has already done in the past.

With reference to the 5th Section, which applies to Canadian ships in Canadian waters, and provides for the marking of the deck lines, the undersigned remarks that he sees nothing objectionable in it.

With regard to the 6th Section of the Act, providing for an owner's load line on all British vessels clearing from the United Kingdom, the undersigned also sees nothing objectionable in it, as it does not apply to Canadian ships until they reach the United Kingdom; and as it is not an official load line (indicating the depth to which it would be safe to load the ship), but merely indicating the maximum load line in salt water to which the owner intends to load his ship for that voyage.

With reference to the general policy of recent Imperial legislation relating to British merchant ships, which include Canadian ships, the undersigned remarks that a number of communications, in the shape of petitions, memorials, and verbal statements from owners of Canadian seagoing ships and boards of trade have reached his department, urging the Canadian Government to take some steps to protect Canadian shipping from the effect of Imperial legislation, so as to place Canadian ships while competing in the carrying trade, on as favourable a footing in British and foreign ports as foreign ships.

Under the present Imperial law, British ships engaged in carrying grain are liable to certain penalties, not only in the carrying trade of the United Kingdom, but also in that of any part of the world.

Foreign ships are not liable to these penalties, which have created much dissatisfaction among British shipowners, and if a remedy could be found for this unsatisfactory state of affairs, which places foreign ships in a more advantageous position than British ships, it is probable much of the discontent which now prevails among Canadian shipowners with reference to Imperial legislation would disappear; and the undersigned is of opinion that one of the best remedies which can be found to allay much of the present uneasiness and excitement in connection with this question, would be to provide in any future legislation that all foreign vessels when in ports of the United Kingdom should be subject to the same restrictions, inspections, and penalties as British ships.

This principle has been in full operation for some time in Canada in respect to vessels loaded with grain, and vessels carrying deck-cargoes, thus placing all vessels, both British and foreign, on the same footing in Canadian waters. The tendency of recent Imperial legislation, with reference to merchant shipping, has been practically to make a discriminating difference in favour of foreign, as against British ships.

He has reason to believe that cases have already occurred where merchants have had cargoes to ship in the United Kingdom, which they were anxious to have placed at their destination as soon as possible, and that in making their selection of vessels, they had given a preference to foreign over British ships, on account of the certainty which existed, in the case of foreign ships, that no detention would arise owing to alleged unseaworthiness or overloading.

Legislation which has such an effect as this, favouring the foreign ship as against a British ship while loading in British ports, is not based on a sound principle, and cannot be satisfactory or permanent, and some solution of the difficulty must therefore be found before Canadian shipowners will rest satisfied or cease agitation.

It is not reasonable to assume that the owner of a Canadian ship which has just completed taking in a full cargo, say of coals, in an English dock, alongside a foreign ship of the same size with an equal quantity of coals on board, will be satisfied when directed by a Board of Trade surveyor to take a portion of his cargo out, say 100 tons, thus losing time and a portion of his freight, and incurring additional dock dues and charges, while the foreign ship proceeds to sea immediately without any risk of detention or additional charges to which her less fortunate rival alongside has been subjected.

It is possible it may be argued, as against the proposition to treat all vessels alike, foreign as well as British, that foreign Governments may retaliate on British ships, and pass such laws as may cause their detention, expense, and annoyance while in their ports; but the undersigned is of opinion that there is very little force in this argument, as no foreign Government would be likely to legislate in this respect in a different manner for foreign ships than for ships of their own country; and if they did legislate in the direction of recent British legislation for the safety of life and property, the undersigned cannot see that either the British Government or British shipowners could reasonably object to it.

He believes that the rules relating to the loading of guano on the West Coast of South America apply to all vessels indiscriminately, and he cannot see that Canadian shipowners, who employ a large amount of their tonnage in that trade, can fairly object to such rules, arbitrary though they be, when they are aware that they are enforced on all alike.

If foreign ships are to have equal rights and privileges in the British carrying trade with British ships, care must be taken in future legislation that no undue advantage be given to them in any respect whatever, either directly or indirectly. Legislation having any other effect must eventually be injurious to the interests of British shipowners, and end to the depreciation and reduction of our mercantile marine.

With regard to British ships in foreign ports, the undersigned is of opinion that no Imperial legislation should be adopted rendering such ships liable to any restrictions or penalties while carrying cargoes from foreign ports to the United Kingdom, or from one foreign port to another, as it would certainly give an undue advantage to the foreign ship over the British ship, and would thereby have the effect of depriving British ships of the benefit of the foreign carrying trade which they now enjoy to a large extent; and he would respectfully suggest, as a subject well worthy of the consideration of the British Government, whether it might not be advisable to enter into negotiations with foreign Governments with the view of inducing them to adopt legislation similar to that which has been or may be adopted by the Imperial Parliament for the safety and protection of life and property.

The undersigned also recommends that the Imperial authorities may be requested to furnish the Canadian Government with an advance copy of the proposed Merchant Shipping Bill of 1876, as soon as it is printed, in order that they may have an opportunity of ascertaining whether it contains any provisions objectionable to Canadian shipping; and if so, that such action may be taken in the premises as the Government may consider necessary for the protection of Canadian interests, by the appointment of an authorised agent to confer with the Imperial authorities in London while the Bill is under discussion in Parliament or otherwise, as may be deemed advisable.

The undersigned would suggest that Lord Carnarvon be consulted as to the desirability of this Government being represented by an agent as above indicated, and if this course meets his approval, that he be requested to name the time when, in his opinion, the agent should be in London.

Respectfully submitted,
(signed) *A. J. Smith*,
Minister of Marine and Fisheries.

— No. 19. —

(M. 3321.)

Colonial Office to Board of Trade.

Sir, Downing-street, 26 February 1876.

See ante, No. 18.

I AM directed by the Earl of Carnarvon to transmit to you, for the consideration of the Board of Trade, a copy of a Despatch from the Governor General of Canada, enclosing a Report of the Canadian Privy Council on the Imperial Merchant Shipping Act, 1875, and on the subject generally of the restrictions which have been placed on Canadian shipping by Imperial legislation.

2. Lord Carnarvon requests that the immediate attention of the Board of Trade may be given to this letter and its enclosures, and he particularly desires that he may be informed as soon as possible whether the Board concur with him in thinking that it will be expedient to telegraph to the Governor General of Canada, inviting the presence here of a representative of the Dominion Government to confer with the Board of Trade and this office while the Merchant Shipping Bill of the present Session is under discussion in Parliament.

3. His Lordship also requests that copies of the Bill above referred to, and of any amendments which the Government may propose to make to it, may be sent to this office before Thursday next, in order that they may be transmitted to the Government of Canada by the mail of that day.

4. Lord

4. Lord Carnarvon would further wish to be favoured with the observations of the Board of Trade with respect to what appears to him the very important question raised by the Canadian Government as to the disadvantages in which British shipping would appear to be placed as compared with foreign shipping; and I am to add that in his Lordship's opinion it may become a matter for serious consideration how far Her Majesty's Government will be in a position to maintain the principle of subjecting Canadian vessels to restrictive measures from which United States and other foreign vessels are exempt.

I am, &c.

The Assistant Secretary, (signed) *Robert G. W. Herbert.*
Marine Department, Board of Trade.

— No. 20. —

(M. 3321.)

Board of Trade to Colonial Office.

Board of Trade, Whitehall Gardens,
Sir, 29 February 1876.

I AM directed by the Board of Trade to acknowledge the receipt of your letter of the 26th instant, and to say that the Board of Trade sees no objection to the presence of a representative of the Dominion Government during the discussion upon the Merchant Shipping Bill; and they concur with Lord Carnarvon in thinking that, as the discussion upon the Merchant Shipping Bill is likely to be commenced in the House of Commons in about 10 days' time, it will be very desirable that a telegram should be dispatched to Canada inviting the presence of such a representative, and assuring him of the willingness of the Board of Trade to confer with him upon the subject. In the other points raised in the letter from the Colonial Office, an answer shall be sent very shortly.

I have, &c.

To the Under Secretary of State, (signed) *Edward Stanhope.*
Colonial Office.

— No. 21. —

From Colonial Office to the Earl of *Dufferin.*

Telegram.

Downing-street, 29 February 1876.

Board of Trade gladly accept offer to send representative to confer on Merchant Shipping Bill; he should come as soon as possible. Further reply to your Despatch 37, of 10th February, will be sent early.

— No. 22. —

(M. 3321.)

Board of Trade to Colonial Office.

Board of Trade, Whitehall Gardens,
Sir, 1 March 1876.

I AM directed by the Board of Trade to forward six copies of the Merchant Shipping Bill of 1876, for transmission to the Government of Canada on Thursday next, according to your request.

The Board of Trade have had under consideration Mr. Herbert's letter of the 26th ultimo, with its enclosures, and observe with satisfaction that most of the provisions of the Act of last year do not seem to be objectionable to the Canadian

shipowners, inasmuch as it is proposed in the Bill of this year substantially to re-enact them.

The Board of Trade is not surprised to find that apprehensions have been entertained in Canada upon this subject; but they believe that they have been aroused more by the vague proposals which have been brought forward by certain individuals in this country, than by the action which Her Majesty's Government has adopted in relation to Merchant Shipping.

But the most important subject to which attention of the Board of Trade has been called in Mr. Herbert's letter, has reference to the disadvantages under which British shipping would appear to be placed, as compared with foreign shipping, by any legislation upon the subject; and it is stated that, in Lord Carnarvon's opinion, "it may become a matter for serious consideration how far Her Majesty's Government will be in a position to maintain the principle of subjecting Canadian vessels to restrictive measures from which United States and other foreign vessels are exempt."

The Board of Trade is of opinion that the representations addressed to Lord Carnarvon by the Dominion Government afford the strongest reason for avoiding all unnecessary or harassing legislation, but they think it desirable to call the attention of Lord Carnarvon to the very serious results which might ensue from the adoption of any such novel principle as that of treating Canadian ships as foreign ships.

1. First of all, it will be impossible to enforce our own laws against our own ships. Ships built in Canada are now owned promiscuously by residents in Canada and in the United Kingdom; and if ships registered in Canada are to be exempt from our laws, every bad colonial-built ship hailing from the United Kingdom (and they are amongst the most unsafe) will be registered in Canada, and will thus escape the laws both of Canada and the United Kingdom.

2. The distinction between Canadian and other British ships will be purely nominal. It will depend simply on the question whether the ship is entered upon the book of a Canadian or of some other British port. The qualifications of ownership, viz., that the owner must be a British subject, will be the same, for a Canadian is a British subject. A Liverpool merchant may register his ship in Quebec, and a Quebec shipowner may register his ship in London.

3. But though the essential difference between a Canadian and other British ships will be nil, the consequences of the distinction will be of the gravest character.

The Canadian ship will carry the laws of her own colony, and not the Imperial laws, with her.

(*a.*) Her title will no longer be one that can be transferred from Canada to England, from England to Australia, or back to Canada, and which, if registered in any one port of the empire, is good in every other port. It will be confined to Canada, and when it is to be transferred to any other port of the empire, it will have to be dealt with as if the ship were foreign.

(*b.*) The ship will not carry with her throughout the empire her own law of discipline. The law of Canada, and not the Imperial law, will apply to her; and when the master of a Canadian ship seeks in Liverpool to enforce the law against a deserter, or a seaman seeks to recover his wages, he will no longer be able to apply to the magistrate under the Imperial Act, but will be treated as a foreigner, and must seek such remedies, if any, as English law gives to foreigners.

(*c.*) The Canadian ship will, on the assumption in question, carry her own flag. She will no longer be a part of Britain, and enjoy the privileges and protection of the Imperial flag and character. What will be her position? What her nationality? What will be her rights and duties in case of war? What will other nations say to her?

It is unnecessary to do more than refer to such questions as these. It is possible that they may have to be faced and worked out. But the difficulties and dangers they involve are obvious. And they show very clearly how extremely cautious we

we should be before we listen to a suggestion for loosening the bonds which have hitherto kept the shipping of the empire under one flag and jurisdiction.

I have, &c.

To the Under Secretary of State, (signed) *Edward Stanhope.*
Colonial Office.

— No. 23. —

The Earl of *Carnarvon* to the Earl of *Dufferin.*

My Lord, Downing-street, 2 March 1876.

I HAVE already informed you by my telegram of the 29th of February, that the Board of Trade gladly accept the offer of your Government to send a representative to this country to confer with Her Majesty's Government on the subject of the Merchant Shipping Bill now before Parliament, and that he should come to this country as soon as possible. See ante, No. 21.

I now enclose six copies of the Merchant Shipping Bill as brought into Parliament, and I shall hope to be in a position to address you further at an early date with regard to the important questions treated of in the Minute of your Privy Council enclosed in your Despatch No. 37 of the 10th of February. See ante, No. 18.

I have, &c.

Governor General the (signed) *R. G. W. Herbert.*
Right Hon. the Earl of Dufferin, K.P., K.C.B., For the Earl of Carnarvon.
&c. &c. &c.

— No. 24. —

(M. 3855.)

Colonial Office to Board of Trade.

Sir, Downing-street, 4 March 1876.

I AM directed by the Earl of Carnarvon to acknowledge the receipt of your letter of the 1st instant, containing the observations of the Board of Trade on the Despatch of the Governor General of Canada (No. 37 of the 10th February) on the subject of the Imperial Merchant Shipping Act, 1875, and the restrictions placed on Canadian shipping by Imperial legislation, of which a copy was forwarded to you in my letter of the 26th of February. See ante, No. 22.

2. Lord Carnarvon fully recognises the difficulties which, as stated in your letter would arise if an attempt were made to treat Canadian ships as foreign ships in English ports. There is, however, another aspect of the case which the Canadian Government would appear to have had more directly in view, and in accordance with which they would seem in their present application to submit, that the injustice (as perhaps they would term it) which the contemplated legislation would work upon their shipping might be obviated if foreign vessels were treated in the same manner as Canadian vessels in English ports. According to this view, the Canadian Government would assent to whatever restrictions the Imperial Parliament might think fit to place upon shipping in English ports, under the belief that nothing would be enacted by Parliament but what was necessary for the safety of ships and crews, but they would ask that the same restrictions should be imposed upon a French or German vessel lying in an English dock as upon an English or Canadian ship.

3. Looking to the nature and objects of the proposed legislation, and to the precedents cited by the Canadian Government, Lord Carnarvon cannot but feel much pressed by the arguments advanced, and he would be glad to be favoured at an early date with any remarks which the Board of Trade may desire to offer on this view of the case.

4. The copies of the Merchant Shipping Bill of 1876, which accompanied your letter, were forwarded to Lord Dufferin by the mail of the 2nd instant.

I am, &c.

The Assistant Secretary, (signed) *Robert G. W. Herbert.*
Marine Department, Board of Trade

— No. 25. —

(M. 3855.)

Board of Trade to Colonial Office.

Board of Trade, Whitehall Gardens,
Sir, 16 March 1876.

I AM directed by the Board of Trade to acknowledge the receipt of your letter of the 4th instant, relating to the restrictions placed upon Canadian shipping by Imperial legislation, in which you state that, although Lord Carnarvon recognises the difficulties which would arise from the treatment of Canadian vessels as foreign vessels in British ports, his Lordship cannot but feel pressed by the arguments brought forward by Canada for placing the same restrictions on foreign vessels as upon colonial vessels in British ports.

While admitting the form of the arguments advanced by the Canadian Government in support of their proposal, the Board of Trade think that the arguments against that proposal have still greater force; and they desire to call Lord Carnarvon's attention to the following observations:—

It is desirable to consider generally what are the limits within which international law and custom would permit Her Majesty's Government to interfere with foreign ships, and what would be the effect of their interference.

And, first, it may be observed, that while a foreign ship, when in our ports, is, as a general rule, subject to the municipal and ordinary criminal law, and also to the fiscal and police regulations of this country, she is even then, by custom and by comity, free from any interference with her own concerns, with the discipline, health, and provisions of her crew, and her whole internal management, the British courts do not meddle with her discipline; and although her sailors may in extreme cases bring a suit for wages in the superior courts, the jurisdiction is never entertained except in extreme cases, and then not without reference to the consul of the country to which the ship belongs.

It will thus be seen that the law of this country does not interfere with the foreign ship in any way or for any purpose which simply concerns her own interests, or the interests of those belonging to her; and that it interferes solely with a view to the interests of persons in this country who may be affected by the doings of the ship and her crew.

There are certain exceptions, or apparent exceptions, to this practice.

When a foreign ship carries emigrants from this country to America, the British authorities interfere to see that the same rules are adopted for securing the safety, health, and decency of the poor passengers as are adopted in the case of a British emigrant ship; and when the emigrant ship arrives in New York, the United States Government apply to the foreign ship, as well as to the United States ship, rules which have similar objects; but this apparent exception to the practice of non-interference really falls within the principles above laid down. It is because the foreign emigrant ship carries British subjects as emigrants, and because these emigrants are of a class who specially need protection, that the British Government specially interferes to protect them. And it is because American society would be injuriously affected by the introduction of a poverty-stricken, diseased, and demoralised set of emigrants that the United States Government interferes to see, so far as it can, that they are carried and landed with safety, decency, and order. At the same time it must be remarked that the vexatious annoyance which the conflicting regulations of the two countries have caused and are causing to British ships, and the negotiations still pending for some mutual agreement upon the subject, are warnings of the difficulties which are likely to arise from interference of this kind, even when it is amply justified by the circumstances.

The same ground may be taken as justifying the compulsory survey of a foreign passenger steamer carrying passengers between two places in the United Kingdom; and even this interference is not exercised in the case of a foreign steamer carrying passengers between this country and foreign ports.

Again, in the case of a foreign steamer bringing cattle to this country, we interfere for the purpose of seeing that diseased foreign cattle do not infect our cattle, and are not made food for the British public. The interference thus exercised is in effect based on the well-recognised principle of quarantine.

There are, no doubt, two recent Canadian cases which go further, viz., the case

case of the recent law regulating the deck loads in ships carrying timber from Canada in the winter, and that of the law regulating the loading of grain in bulk at Montreal and Quebec. These cases are recent; the laws are passed by the country of export, and in cases where the country itself, or the mother country, possesses by far the larger proportion of the ships engaged in the trade, the regulations are such as are not likely to be objected to, and if they were objectionable there has scarcely been time to hear the objections. At the same time it appears to the Board of Trade that it would not be easy to answer objections from foreign countries (as in the case of France) should such arise. The real security is that there are few, if any, French or other foreign ships concerned, and that no objection is likely to be made.

As regards the reference made by the Canadian Government to the regulations concerning the stowage of grain in some of the ports of the west coast of South America, the Board of Trade have no information, but it would probably not be expedient to take example in these cases from South America.

Only last year, in the excitement arising from the loss of the British steamship "Tacna," the Chilian Government passed a decree empowering their officers to stop any ship, British or foreign, which those officers in their discretion might for any reason think unsafe. Against this decree the Secretary of State, at the instance of the Board of Trade, protested in the strongest terms; with what result, however, it has not yet appeared.

The Board of Trade do not think therefore that these precedents justify a departure from what has hitherto been the practice of Great Britain and of other maritime nations; and it appears to them that a departure from that practice will lead to great inconveniences.

It must be remembered that what is now proposed is not to regulate the export of an article, the produce of this country, a branch of trade which affords special facilities for regulation, but to impose all kinds of restrictions on all foreign ships which, having loaded according to their own laws, either in their own country or in some foreign port, simply come to British ports in the ordinary course of trade to discharge their cargoes, to receive other cargoes, and to proceed on their voyage. It is proposed, *inter alia*, to refuse to receive these ships or their cargoes, unless they have complied with some regulations which did not exist at the port of loading; *e.g.*, it is proposed to refuse deck cargoes of timber from the United States or from Norway, although the ships which bring those deck loads have loaded in accordance with their own laws and with the laws of the port of loading, and although they have made the voyage in safety. It is proposed, above all things, that all foreign ships shall be subject to detention, at the instance of the Board of Trade or its officers, for any defect in hull equipments or loading. The enactment is a penal enactment in spirit and intention, and can be enforced only by force or by penalties. It is to be enforced against the foreign ship, not for the sake of the community of the British port at which the ship is, or of British citizens, but either for the safety of the ship and her crew, or in order to prevent that ship from having an advantage in competing with British ships.

The working of this enactment may be illustrated by the case of ships engaged in the timber trade of the Baltic, which mostly belong to Baltic countries. It is not a rich trade; it must be economically managed; the ships are poor, though well manned; and to make the most of their business they carry deck loads, and carry them in safety. An interference on the part of British officials with these vessels, an intimation that they must not carry deck loads, or that their hulls must be repaired before they are allowed to leave our ports, would doubtless call forth strong remonstrances from the Norwegian, the Russian, or the German Governments, and might well give rise to unfriendly feelings between the nations.

It may be said that English sailors may sail in the foreign ship, and that our care for them would justify interference on the principle applied in the case of emigrants. This however is a dangerous argument to use. British sailors are much less employed in foreign ships than foreign sailors in British ships, and consequently on this ground foreign nations would have a much larger ground for interference with British ships than this country would have with foreigners; but the analogy does not hold. A seaman by engaging in a foreign ship submits himself to the law of that ship, and it is to that law that he must look both for protection and justice. All practice and all convenience supports this view of the

case. A still more serious argument against the proposal of the Canadian Government is, that it would justify every foreign Government in imposing whatever restrictions or regulations it may think fit on British shipping when within its jurisdiction. It would no longer be possible to remonstrate, as in the case of Chili, and British ships would have to submit to foreign rules, however unreasonable and foolish. It is moreover quite possible that in some countries, and especially in those countries where the desire prevails to protect their own shipping against the competition of foreign shipping, powers of this description might be unfairly used in such a way as to annoy or injure the shipping of other countries, and even when not so used, much mischief might be caused by the natural and probable suspicion that they were so used.

On all these grounds the Board of Trade are of opinion that the course proposed by the Canadian Government is one fraught with mischief and danger. It would involve this country in serious difficulties in administering the law in English ports. It would subject British shipping to vexatious interference in foreign ports, and it would give frequent occasion for international misunderstandings.

I am to add that the Board of Trade have not, either in this or in their former letter, referred specially to certain points in the Canadian case, such as the treatment of Canadian ships when in Canadian waters, because they hope to be able to confer with the representative whom the Canadian Government is sending over before the Merchant Shipping Bill becomes law.

I have, &c.

The Under Secretary of State, (signed) *T. H. Farrer.*
Colonial Office.

— No. 26. —

(M. 4692.)

Colonial Office to Board of Trade.

Sir, Downing-street, 22 March 1876.

I AM directed by the Earl of Carnarvon to transmit to you, for the information of the Board of Trade, the enclosed copy of a notice of motion introduced by Mr. Palmer into the Dominion House of Commons respecting Imperial legislation affecting Canadian shipping.

I am, &c.

The Assistant Secretary, (signed) *W. R. Malcolm.*
Marine Department, Board of Trade.

Enclosure in No. 26.

Dominion House of Commons,
Mr. Palmer, Friday, 25 February 1875.

ON Monday next, Committee of the whole House to consider the following resolution: "That in the opinion of this House the right of legislation to affect Canadian ships, and the rights and liabilities of the owners thereof belong exclusively to the Parliament of Canada, and that any legislation on those subjects by the Imperial Parliament (except so far as may equally affect Canadian ships, with the ships of all other countries in ports of Great Britain, and such as may affect Imperial interests) would be inconsistent with such exclusive right of the Canadian Parliament, and a violation of responsible Government a conceded to Canada."

— No. 27. —

(M. 4878)

Colonial Office to Board of Trade.

Sir, Downing-street, 24 March 1876.

See ante, No. 25

I AM directed by the Earl of Carnarvon to acknowledge the receipt of your letter (M. 3855), of the 16th instant, expressing the views of the Board of Trade on some points connected with the restrictions placed on Canadian shipping by Imperial

Imperial legislation. His Lordship is very sensible that the whole question is full of complication, and its further consideration appears to lead to the conclusion that while every legitimate effort should be made to ensure fuller protection for the crews, any minute interference with the details of shipping arrangements (on the necessity of which interference Lord Carnarvon is not now entering) must tend to give rise to difficulties of a serious character, in dealing with which the Colonies, as well as Foreign Powers, will have to be specially considered.

2. Lord Carnarvon thinks there is considerable force in the arguments of the Board of Trade on the question of treating foreign vessels in British ports in the same manner as British vessels, but the Board of Trade will perceive from the debate in the Dominion House of Commons, of which a copy is enclosed in the separate letter from this department of the 24th instant, that the converse proposal, that in the ports of the United Kingdom Canadian vessels should be treated in the same way as foreign vessels now are, is supported by a strong body of opinion in Canada.

3. Lord Carnarvon shares the hope that it may be possible to come to some satisfactory understanding upon these questions after conferring with the Canadian officer expected in this country, and in the meantime his Lordship will only observe that there cannot but be reason to apprehend that if it is found necessary to impose severe restrictions on British shipping, the Colonial Governments may consider that they have strong ground for urging either that their vessels shall be exempted from those restrictions in common with foreign vessels, or that foreign vessels shall be subjected to similar restrictions.

4. If foreign vessels continue exempted, there may be danger of colonial ships being transferred to foreign flags, in order to obtain similar exemption; while, if they are not exempted, colonial ships, as being British, may be exposed in retaliation to vexatious restrictions in foreign ports, and this again would be another inducement to place them under a foreign flag.

5. The question must resolve itself into a very careful examination of the extent to which interference with the responsibility of the shipowners should be carried, and Lord Carnarvon cannot conceal from himself the serious difficulties which, in a colonial point of view, are raised, and which, if any satisfactory settlement is to be had, must be fairly and fully considered.

I am, &c.

The Assistant Secretary, (signed) *Robert G. W. Herbert.*
Marine Department, Board of Trade.

— No. 28. —

(M. 4878.)

Board of Trade to Colonial Office.

Board of Trade, Whitehall Gardens,
4 April 1876.

Sir,

I AM directed by the Board of Trade to acknowledge the receipt of your letter of the 24th ultimo, on the subject of the restrictions placed on Canadian shipping by Imperial legislation.

In reply, I am to state that this Board quite appreciate the difficulties which his Lordship is of opinion will arise by a too minute interference with shipping; and they entirely concur in Lord Carnarvon's views as expressed in the concluding paragraph of your letter.

I am further to state, that the Board of Trade will be glad to confer with the representative, who is expected from Canada, as soon as he arrives, upon the subject of the Bill now before Parliament.

I have, &c.

The Under Secretary of State, (signed) *T. H. Farrer.*
Colonial Office.

— No. 29. —

The Earl of *Dufferin* to the Earl of *Carnarvon*.

(No. 46.)

Canada.

Government House, Ottawa,
18 February 1876.

My Lord,

I HAVE the honour of submitting for your Lordship's consideration a copy of an approved Report of a Committee of the Privy Council expressing their concurrence in a Memorandum by the Honourable the Minister of Marine and Fisheries respecting the custom of deck loading in timber-laden ships.

I have, &c.
(signed) *Dufferin.*

The Right Hon. the Earl of Carnarvon,
&c. &c. &c.

Enclosure in No. 29.

COPY of a REPORT of a Committee of the Honourable the Privy Council, approved by his Excellency the Governor General on the 18th day of February 1876.

THE Committee of the Privy Council have had under consideration the Report hereunto annexed, from the Honourable the Minister of Marine and Fisheries, having reference to a resolution stated to have been passed at a meeting of underwriters and shipowners in Newcastle-on-Tyne, respecting the custom of deck-loading in timber-laden ships, and they respectfully submit their concurrence in the said Report, and advise that a copy thereof and of this Minute be transmitted for the information of Her Majesty's Government.

Certified,
(signed) *W. A. Himsworth,*
Clerk, Privy Council, Canada.

Ottawa, 15 February 1876.

THE undersigned has had his attention called to a resolution which is stated to have been passed on the 15th ultimo, at a meeting of underwriters and shipowners in Newcastle-on-Tyne, England, to consider the practicability of abolishing the custom of deck-loading in timber-laden ships, authorising the secretary to correspond with the Imperial Government recommending that ships of British and Foreign register carrying deck loads of timber be prohibited from entering ports of the United Kingdom at all seasons of the year, and to make such representations to other Governments as will enable them to carry out such resolution.

It would appear from this that there will be some effort made on the part of underwriters and others in the United Kingdom to induce the Imperial Government to propose some provision in the Merchant Shipping Bill of 1876, now before Parliament, to prevent the carrying of deck loads on timber-laden vessels, and in the event of such a provision becoming law, the undersigned is of opinion that it would be very detrimental to the carrying trade between Canada and the United Kingdom.

It will be seen by the accompanying copy of an Act which was passed by the Canadian Parliament in 1873, that deck loads on vessels clearing outwards from Canada have been very much restricted during the winter months, and as this law which was passed after much consideration and discussion in the Canadian Parliament, has been found to work well, and prevents to a great extent loss of life and property at sea, any additional legislation on this subject by the Imperial Parliament would be very embarrassing to the Canadian carrying trade, and very injurious to the owners of Canadian ships engaged in carrying wood between Canada and the United Kingdom. It would also have the effect of increasing the rate of freight on timber deals and other wood goods, exported from Canada to the United Kingdom, by restricting to a considerable extent, the quality of cargo which ships would be allowed to carry, and would thus be detrimental to the wood trade of Canada, which has to compete with wood from the Baltic, on which there is much less freight and insurance.

With reference to the question of safety of ships not having spar decks crossing the Atlantic from Canada to the United Kingdom during the winter months with three feet of deals

deals on deck as allowed by the Canadian deck-load law, the undersigned begs leave to refer to an exhaustive report on this subject made at the request of the Board of Trade on the 11th December 1860, by Mr. William Smith, his deputy, who was then Comptroller of Customs and Navigation Laws at the Port of St. John, New Brunswick, and which was quoted at much length by Mr. Farrer, the Permanent Secretary of the Board of Trade, in his evidence before the Royal Commission on Unseaworthy Ships in 1873, and which was also printed in the Report of that Commission (Appendix No. 3), from which it will be seen that it was the opinion of practical experienced persons engaged in the Canadian carrying trade and of seafaring men, that a deck load of three feet of deals on a ship which had no spar deck, was not dangerous to the ship in the winter months, and the undersigned is of opinion that the experience of the law passed by the Canadian Parliament in 1873, fully sustains the views held by many persons engaged in this trade with reference to the safety of a moderate deck load of light wood in the winter months.

If deck loads are prohibited from Canada, it will probably again drive shipowners to resort to other means to evade the law as they did in 1860, and he therefore recommends in the event of the Imperial Parliament legislating on this subject that Her Majesty's Government may be requested to take the necessary steps to prevent any Imperial legislation affecting ships clearing from ports in Canada.

Respectfully submitted,
(signed) *A. J. Smith*,
Minister of Marine and Fisheries.

Sub-Enclosure in No. 29.

Act of the Parliament of Canada.

36th Victoria.

Chap. 56.

AN ACT respecting Deck Loads.—Assented to 23rd May 1873.

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:— Preamble.

1. In this Act the word "ship" includes every description of vessel used in navigation, not propelled by oars; and the word "master" includes any person having command or charge of a ship. "Ship."

2. Every ship shall be subject to the provisions of this Act,— When ships shall be subject to this Act.

(1.) When sailing after the 1st day of October or before the 16th day of March in any year, on a voyage from any port in Canada to any port in Europe, and during the voyage while within Canadian jurisdiction; and

(2). No master of any such ship shall place, or cause or permit to be placed or remain, upon or above any part of the upper deck of such ship, not included within the limits of any break or poop, or any other permanently closed-in space thereon and available for cargo, the tonnage of which forms part of the register tonnage of such ship,— Certain lading not to be placed on deck.

(*a.*) Any square, round, waney or other timber;

(*b.*) Any more than five spare spars, or store spars, made, dressed and finally prepared for use, or not so dressed and prepared;

(*c.*) Any cargo of any description, to any height exceeding three feet above the deck.

3. Every ship shall be subject to the provisions of this Act— Ships sailing to the West Indies.

(1.) When sailing after the 15th day of November, or before the 16th day of March in any year, on a voyage from any port in Canada, to any port in the West Indies, and during the voyage while within Canadian jurisdiction; and

(2.) No master of any such ship, if she be a single-decked vessel, shall place, or cause or permit, any cargo whatever to be placed or remain upon or above the deck to a height exceeding by more than six inches that of the main rail, nor in any case greater than four feet six inches above the deck, nor if she has a spar deck shall he place, or cause or permit to be placed or remain, any cargo on or above any part of such spar deck; except that this provision shall not be understood to prevent such master from carrying two spare spars or store spars, made, dressed, and finally prepared for use, on the deck or on the spar deck of such vessel. Certain modes of carrying cargo forbidden. Exception.

 4. Provided

Proviso; in case of leak or damage to ship.

4. Provided always, that if the master of any ship subject to the provisions of this Act, under the second section thereof, considers that it is necessary, in consequence of the springing of a leak, or of other damage received or apprehended during the voyage, to remove any portion of the cargo thereof, and to place upon any part of the upper deck thereof, not included as mentioned in the said second section, any other or greater portion of such cargo than is by the said second section permitted to be placed upon such part of the upper deck of such ship, or if the master of any ship subject to the provisions of this Act, under the third section thereof, considers that it is necessary from any such cause as aforesaid, to remove any part of the cargo, and to place it on the deck or on the spar deck of such vessel (as the case may be), he may remove or cause to be removed to, and placed upon, such part of the upper deck or on the deck or spar deck of such ship, so much of the cargo thereof, and may permit the same to remain there for such time as he considers expedient.

Customs' officer to ascertain that ship is not loaded contrary to this Act.

5. Before any officer of the Customs permits any ship subject to the provisions of the second section of this Act, to clear out from any port in Canada, he shall ascertain that no square, round, waney or other timber, nor more than five spare spars, or store spars, nor any cargo of any description, to any height exceeding three feet above the deck, is, or are piled, or stored, or placed upon any part of the upper deck of such ship, not included within the limits of any break or poop, or any other permanently closed in space thereon, available for cargo, and the tonnage of which forms part of the register tonnage of such ship, and shall give the master of such ship a certificate to that effect.

Certificate to be given by him before clearing.

6. Before any officer of the Customs permits any ship subject to the provisions of this Act, under the third section thereof, to clear out from any port in Canada, he shall ascertain that no provision of the said third section is contravened in respect of such ship and the cargo thereof, and shall give the master of such ship a certificate to that effect.

Ship not to sail without certificate.

7. No master of any ship shall sail in such ship, when subject to the provisions of this Act from any port in Canada, until he has obtained the certificate required in the case of such ships from the proper officer of the Customs.

Penalty for contravention.

8. Every master of a ship, subject to the provisions of this Act, who contravenes any provisions of this Act shall, for each such contravention, incur a penalty not exceeding, except as hereinafter provided, 800 dollars.

Penalty for contravention after certificate.

9. Every master of a ship, subject to the provisions of this Act, who after having complied with the provisions of this Act, requiring him to obtain a certificate as aforesaid from the proper officer of the Customs, contravenes any other provision of this Act, shall incur a penalty not exceeding 800 dollars.

Sailing with intent to evade this Act to be a misdemeanor.

10. Whosoever, being the master of any ship, with intent to evade any provisions of this Act, sails in such ship after the 1st day of October, or before the 16th day of March in any year, from any port in Canada to any port in Europe, without such certificate as last aforesaid, and with any cargo on any part of the upper deck of such ship, not included within the limits of any break or poop, or any other closed-in space thereon available for cargo and the tonnage of which forms part of the register tonnage of such ship,—or sails in such ship, after the 15th day of November, or before the 16th day of March in any year, from any port in Canada to any port in the West Indies, with any cargo upon the deck, or on the spar deck of such ship (as the case may be), which would prevent his rightfully obtaining such certificate, is guilty of a misdemeanor, and shall be liable to be punished by imprisonment for any term not exeeeding two years and not less than three months, or by fine not exceeding 800 dollars, or by both fine and imprisonment in the discretion of the court before which he is convicted.

Penalty.

Ship may be seized and sold to secure payment of penalty.

11. Any ship in respect of which any penalty is incurred under this Act, may be seized and detained by order of the Court by or before which such penalty is imposed or recovered until such penalty be paid, or security given for the payment thereof, and unless payment be made or satisfactory security be given within 30 days, such ship may at the expiration thereof, be sold by order of the Court, and the said penalty and all the costs paid out of the proceeds, the surplus (if any) being paid over to the owner of the ship.

Disposal of penalties.

12. The whole of every pecuniary penalty recovered under this Act shall belong to Her Majesty, and shall be paid over to the Receiver General by the officer or person receiving the same, and shall be thereafter appropriated in such manner as the Governor in Council may direct in each case.

Act not to apply to British Columbia.

13. This Act shall not apply to any vessel sailing from British Columbia.

— No. 30. —

(M. 3935.)

Colonial Office to Board of Trade.

Sir, Downing-street, 7 March 1876.

I AM directed by the Earl of Carnarvon to transmit to you, to be laid before the Board of Trade, a copy of a Despatch from the Governor General of Canada, with enclosures, respecting the custom of deck-loading in timber-laden ships.

Lord Carnarvon desires me to enclose a copy of a correspondence on this subject, which was presented to Parliament in July 1873.

I am, &c.

The Assistant Secretary, (signed) *W. R. Malcolm.*
Marine Department, Board of Trade.

See *ante*, No. 29.

Correspondence on Deck Loads Act. Parl. Paper, [C., 823], 1873.

— No. 31. —

(M. 5303.)

Colonial Office to Board of Trade.

Sir, Downing-street, 3 April 1876.

WITH reference to previous correspondence, I am directed by the Earl of Carnarvon to transmit to you, for the information of the Board of Trade, an Extract from the Votes and Proceedings of the Dominion House of Commons on the 13th of March with regard to a Resolution proposed by Mr. Mitchell respecting Imperial Legislation affecting Canadian Shipping.

I am, &c.

The Assistant Secretary, (signed) *W. R. Malcolm.*
Marine Department, Board of Trade.

Enclosure in No. 31.

EXTRACT from the Votes and Proceedings of the Dominion House of Commons on the 13th March 1876.

"MR. MITCHELL moved, that Mr. Speaker do now leave the Chair for the House to go into Committee of the whole, to consider the following Resolution, for the purpose of founding an Address to Her Majesty thereon:

Resolved, As the opinion of this House that any legislation affecting British merchant shipping which may be adopted by the Imperial Parliament should not include in its operation Canadian tonnage, or if such legislation should be applied to Canadian tonnage, it should also include foreign tonnage, in order that no advantage should be had by the latter-over the former by the effect of such proposed Imperial legislation.

Mr. *McLeod* moved in amendment that all the words after "that" be expunged, and the following substituted in lieu thereof: "The Despatch forwarded by the Government of the Dominion to Lord Carnarvon under date the *8th February 1876, is approved, and that this House expresses a hope that the views therein contained will be adopted by the Imperial Parliament in any legislation affecting British Merchant Shipping."

* *Qy.* Despatch of 10th February 1876, No. 18, and Enclosures.

Mr. *Langevin* moved in amendment thereto, that all the words after "that" in the said proposed amendment be expunged, and the following inserted instead thereof: "In the opinion of this House it is desirable that the Government should continue the efforts made by the late and present Governments, to ensure the exemption of Canadian shipping from the effects of any Imperial legislation calculated to place Canadian shipping at a disadvantage with foreign ships in British and foreign ports."

And a debate arising thereon, the said debate was, on motion of Mr. Mackenzie, adjourned.

— No. 32. —

Colonial Office to the Earl of *Dufferin*.

My Lord, Downing-street, 19 April 1876.

WITH reference to my Despatch, No. 45, of the 2nd of March, I have the honour to transmit to your Lordship the enclosed copies of a correspondence * which has taken place between this department and the Board of Trade, arising out of your Despatch, No. 37, of the 10th of February, relating to Imperial legislation as affecting Canadian shipping interests.

I have, &c.
(signed) *W. R. Malcolm*,
for the Earl of Carnarvon.

Governor General,
Right Hon. the Earl of Dufferin, K.P., K.C.B.,
&c. &c. &c.

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* See *ante*, No. 18, Colonial Office to Board of Trade. No. 22, Board of Trade to Colonial Office. No. 24, Colonial Office to Board of Trade. No. 25, Board of Trade to Colonial Office. No. 27, Colonial Office to Board of Trade. No. 28, Board of Trade to Colonial Office.

MERCHANT SHIPPING LEGISLATION
(CANADA).

COPIES of all PAPERS and CORRESPONDENCE between Her Majesty's Government and the Government of the Dominion of *Canada* since 1 January 1875, in relation to IMPERIAL MERCHANT SHIPPING LEGISLATION as affecting SHIPPING registered in *Canada*; of all CORRESPONDENCE between the said Governments as to the EXEMPTION of CANADIAN SHIPPING from the Operation of IMPERIAL LEGISLATION; and, of all CORRESPONDENCE between the said Governments in relation to CANADIAN LEGISLATION for the Inspection of CANADIAN VESSELS; &c.

(*Mr. Norwood.*)

Ordered, by The House of Commons, *to be Printed*,
24 *April* 1876.

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187. *Under* 4 *oz.*

NOR H AMERICA. No. 5 (1876).

CORRESPONDENCE

RESPECTING THE

NON-ADMISSION OF FISH AND FISH OILS,

THE PRODUCE OF

BRITISH COLUMBIA,

INTO

THE UNITED STATES,

FREE OF DUTY,

UNDER THE TREATY OF WASHINGTON, MAY 8, 1871.

Presented to both Houses of Parliament by Command of Her Majesty.
1876.

LONDON:
PRINTED BY HARRISON AND SONS.

[C.—1548.] *Price 2d.*

TABLE OF CONTENTS.

No.	Name.	Date.	Subject.	Page
1	Sir E. Thornton . ..	Apr. 12, 1875	Sends copy of Lord Dufferin's despatch, relative to refusal of United States' Government to admit fish from British Columbia free of duty. Awaits instructions	1
2	Colonial Office	27,	Sends copy of Lord Dufferin's despatch. Proposes to wait for Sir E. Thornton's observations ..	3
3	To Colonial Office ..	May 6,	Sends copy of No. 1. Requests explanation of delay in bringing the matter to the notice of Her Majesty's Government	4
4	Colonial Office	7,	Sends copy of further despatch from Lord Dufferin, inclosing Sir E. Thornton's reply to his despatch .	4
5	„ „	13,	Inquiries will be made as to the delay. Very desirable to have British Columbia included in the Treaty	5
6	Sir E. Thornton . ..	10,	Sends copy of further despatch from Lord Dufferin. Is not aware that the incorporation of British Columbia in the Dominion of Canada was ever made known to United States' Government ..	5
7	To Colonial Office ..	26,	Sends copy of No. 6..	7
8	Colonial Office	28,	Sends copy of further despatch from Lord Dufferin. Suggests that a representation should be made to the United States' Government without delay ..	7
9	To Colonial Office ..	June 4,	Papers referred to Law Officers	9
10	Colonial Office	Aug. 5,	Sends copy of a despatch explaining the delay referred to in No. 3	9
11	To Sir E. Thornton ..	11,	Cannot instruct him to ask the United States' Government as desired	10
12	To Colonial Office ..	11,	Sends copy of No. 11	11
13	To Sir E. Thornton ..	14,	Sends copy of No. 10	11
14	Colonial Office	19,	Sends copy of despatch to Sir W. Haly, communicating the decision of Her Majesty's Government	11

Correspondence respecting the Non-admission of Fish and Fish Oils, the produce of British Columbia, into the United States, Free of Duty, under the Treaty of Washington of May 8, 1871.

No. 1.

Sir E. Thornton to the Earl of Derby.—(Received April 26.)

My Lord, *Washington, April 12, 1875.*

I HAVE the honour to inclose copy of a despatch which I have received from the Governor-General of Canada, and of its inclosures, relating to the refusal of the United States' Customs authorities to allow the importation free of duty of fish and fish oil from British Columbia, in accordance with the provisions of Article XXI of the Treaty of May 8, 1871.

His Excellency requests me to take such action in the matter as I may think proper; but as British Columbia did not form a part of the Dominion of Canada when the above-mentioned Treaty was signed, I hesitate to make any representation to the Government of the United States upon the subject until I shall receive your Lordship's instructions to do so.

It is, however, true that the United States' Act of Congress of March 1, 1873, when British Columbia certainly did form a part of the Dominion of Canada, enacts that fish oil and fish, being the produce of the fisheries of the Dominion of Canada, and of Prince Edward Island, shall be admitted into the United States free of duty.

I have, &c.
(Signed) EDWD. THORNTON.

Inclosure 1 in No. 1.

The Earl of Dufferin to Sir E. Thornton.

Sir, *Government House, Ottawa, April 8, 1875.*

I HAVE the honour of inclosing, for such action as you may think proper, a copy of an approved report of a Committee of the Privy Council respecting the denial on the part of the United States' authorities of the right of the Province of British Columbia to participate in those provisions of the Treaty of Washington under which fish and fish oil, or the produce of Canadian fisheries, are entitled to admission into the United States free of duty.

I have forwarded a copy of the Minute of Council for the information of the Secretary of State for the Colonies.

I have, &c.
(Signed) DUFFERIN.

Inclosure 2 in No. 1.

Report of a Committee of the Honourable the Privy Council, approved by His Excellency the Governor-General, on the 1st day of April, 1875.

ON a Report dated 31st March, 1875, from the Honourable the Minister of Customs, representing that he has been given to understand that the United States' Customs Officers at San Francisco and other ports deny the right of the Province of British Columbia to participate in the terms of the Washington Treaty, which provide for the admission free of duty of fish and fish oil, &c., the product of the Canadian Fisheries, and demand and collect duties upon the same as if the said Treaty had not been made, and further representing that the interpretation given to the law of this Dominion, which was enacted to give effect to the said Washington Treaty, is, and always has been, that fish and fish oils, &c., as therein provided, are equally entitled to free entry in British Columbia, as in all other Provinces of the Dominion, and he submits a copy of the opinion of the Honourable the Minister of Justice on the subject, dated 5th February, 1874. He therefore requests that the case be brought under the notice of Her Majesty's Ambassador to the United States at Washington, with a view to the adoption of proper measures for the removal of the illegal restrictions imposed on the imports of such articles from British Columbia into the United States.

The Committee concur in the above Report, and advise that a copy of this Minute and of the report of the Minister of Justice therein referred to, be transmitted to Sir Edward Thornton.

Certified,
(Signed) W. A. HIMSWORTH,
Clerk, Privy Council, Canada.

Inclosure 3 in No. 1.

Report by the Minister of Justice of Canada.

Department of Justice, February 5, 1874.

REFERENCE is made by the Department of Marine and Fisheries as to whether fish oils from the Province of British Columbia are admissible into United States' markets duty free under the Treaty of Washington.

By Article XXI of the Treaty of Washington, fish and fish oil, the produce of the United States' fisheries or of the Dominion of Canada, shall be admitted into each country free of duty.

By Article XXXIII, Article XXI, &c., shall take effect as soon as the laws required to carry them into operation shall have been passed by the Imperial and Canadian Parliaments on the one hand, and the United States' Congress on the other.

The Treaty itself bears date the 8th May, 1871, and is, as to these clauses, in effect a proposition of the Commissioners for free exchange of the commodities named, should each country see fit to pass laws covering the suggestion.

The real agreement and its terms are to be looked for in the Legislative action of the two countries, and these consist of—

1st. Statutes, Canada, 1873, chapter 2, passed 14th June, 1872; section 2 of which provides for the admission into Canada, free of duty, of fish and fish oils, the produce of the fisheries of the United States.

At the time of the passing of this Act, the Province of British Columbia was a part of Canada, having been admitted 20th July, 1871; was represented in Parliament; and, therefore, there being no restriction in the Act, Canada was bound by it to admit into the ports of British Columbia United States' fish and fish oils.

2nd. Act of Congress, United States; approved 1st March, 1873. It is enacted that whenever the President of the United States shall receive satisfactory evidence that the Parliament of Canada has passed laws on its part to give full effect to Article XXI of the Treaty, "the President is to issue his Proclamation to that effect, and thereafter all fish oil and fish, the produce of Canada, shall be admitted into United States free of duty."

The President's Proclamation, as above required, was published July 1, 1873.

There being no restriction in the Act of Congress, it must be taken as applying to what at the time constituted Canada; and as British Columbia then formed a part of

Canada, the production of its fisheries in fish and fish oil are entitled to admission into United States free of duty.

(Signed) H. BERNARD,
Deputy Minister of Justice.

I concur,
(Signed) A. A. DORION,
Minister of Justice.

No. 2.

Mr. Herbert to Lord Tenterden.—(*Received April* 28.)

Sir, *Downing Street, April* 27, 1875.

WITH reference to Mr. Bourke's reply to a question asked by Sir A. Monck in the House of Commons on the 9th instant, I am directed by the Earl of Carnarvon to transmit to you, to be laid before the Earl of Derby, a copy of a despatch from the Governor-General of Canada, inclosing a Report of a Committee of the Privy Council respecting the denial on the part of the United States' authorities of the right of the Province of British Columbia to participate in those provisions of the Treaty of Washington under which fish and fish oil, &c., the produce of Canadian fisheries, are entitled to admission into the United States free of duty.

Lord Derby may probably think it desirable to take the opinion of the Law Officers of the Crown in regard to this matter, but before doing so, Lord Carnarvon thinks it may be well to await any observations which Sir. E. Thornton may have to offer on the subject.

I am, &c.
(Signed) ROBERT G. W. HERBERT.

Inclosure 1 in No. 2.

The Earl of Dufferin to the Earl of Carnarvon.

My Lord, *Government House, Ottawa, April* 8, 1875.

I HAVE the honour to forward, for your Lordship's information, a copy of a report of a Committee of my Privy Council, approved by myself, respecting the denial on the part of the United States' authorities of the right of the Province of British Columbia to participate in those provisions of the Treaty of Washington, under which fish and fish oil, &c., the product of Canadian fisheries, are entitled to admission into the United States free of duty.

In accordance with the request of the Privy Council I have transmitted a copy of this report to Sir E. Thornton, Her Majesty's Minister at Washington.

I have, &c.
(Signed) DUFFERIN.

Inclosure 2 in No. 2.

Report of a Committee of the Honourable the Privy Council, approved by his Excellency the Governor-General in Council, on the 1st *day of April,* 1875.

[See Inclosure 2 in No. 1.]

Inclosure 3 in No. 2.

Report by Minister of Justice of Canada, dated February 5, 1874.

[See Inclosure 3 in No. 1.]

No. 3.

Lord Tenterden to Mr. Herbert.

Sir *Foreign Office, May* 6, 1875.

WITH reference to your letter of the 27th ultimo, forwarding a copy of a despatch from the Governor-General of Canada and a report of the Committee of the Privy Council of the Dominion, respecting the denial on the part of the United States' authorities of the right of the Province of British Columbia to participate in those provisions of the Treaty of Washington, under which fish and fish oil, &c., the produce of Canadian fisheries, are entitled to admission into the United States free of duty, I am directed by Lord Derby to transmit to you, to be laid before Lord Carnarvon, a copy of a despatch from Sir E. Thornton on the subject;* and I am to request you to point out to his Lordship that the United States' Act, giving effect to the provisions of the Treaty, was passed on the 1st of March, 1873, and that the report of the Canadian Department of Justice on the exclusion of the produce of the Columbian fisheries is dated the 5th of February, 1874, while the report of the Committee of the Privy Council of the Dominion was not made until the 1st ultimo.

Lord Derby is of opinion that before taking any steps in this matter it would be desirable to have some explanation of the delay which has occurred in bringing it to the notice of Her Majesty's Government.

I am, &c.
(Signed) TENTERDEN.

No. 4.

Mr. Malcolm to Lord Tenterden.—(Received May 7.)

Sir, *Downing Street, May* 7, 1875.

WITH reference to my letter of the 27th of April, inclosing a copy of a despatch from the Governor-General of Canada, respecting a question as to the right of the Province of British Columbia to participate in those provisions of the Treaty of Washington, under which fish and fish oil, the produce of the Canadian fisheries, are entitled to admission into the United States free of duty, I am directed by the Earl of Carnarvon to transmit to you, to be laid before the Earl of Derby, a copy of a further despatch from Lord Dufferin, inclosing the reply of Sir Edward Thornton to the communication addressed to him on the subject by the Governor-General of the Dominion.

I am, &c.
(Signed) W. R. MALCOLM.

Inclosure 1 in No. 4.

The Earl of Dufferin to the Earl of Carnarvon.

My Lord, *Government House, Ottawa, April* 19, 1875.

IN my despatch of the 8th instant I had the honour of transmitting to your Lordship a copy of an Order of the Privy Council relative to the refusal of the United States Authorities to admit fish and fish-oil from British Columbia duty free, in accordance with Article XXI of the Treaty of Washington.

I had also the honour of informing you that, by the wish of my Government, I had communicated a copy of the report of Council to Her Majesty's Minister at Washington.

I now beg to inclose for your Lordship's information, a copy of the reply which I have received from Sir Edward Thornton upon the subject.

I have, &c.
(Signed) DUFFERIN.

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* No. 1.

Inclosure 2 in No. 4.

Sir E. Thornton to the Earl of Dufferin.

My Lord, *Washington, April* 12, 1875.

I HAVE the honour to acknowledge the receipt of your Excellency's despatch of the 8th instant, relative to the refusal of the United States' Authorities to admit fish and fish-oil from British Columbia duty free, in accordance with Article XXI of the Treaty of May 8th, 1871.

As British Columbia was not, at the time of the signing of that Treaty, a part of the Dominion of Canada, I do not feel justified in making a representation upon the subject to the United States' Government without instructions to that effect from the Earl of Derby. It would, however, appear that, although British Columbia may not be entitled to that privilege by the provisions of the Treaty, it is so with reference to the Act of Congress of March 1st, 1873.

I have, &c.
(Signed) EDWD. THORNTON.

No. 5.

Mr. Malcolm to Lord Tenterden.—(Received May 14.)

Sir, *Downing Street, May* 13, 1875.

IN reply to your letter of the 6th instant, respecting the denial on the part of the United States' Authorities of the right of the Province of British Columbia to participate in those provisions of the Treaty of Washington under which fish and fish-oil, &c., the produce of the Canadian fisheries, are entitled to admission into the United States free of duty, I am directed by the Earl of Carnarvon to acquaint you, for the information of the Earl of Derby, that his Lordship has addressed an inquiry to the officer administering the Government of Canada, as to the delay in bringing forward this question in compliance with his Lordship's suggestion.

I am desired, however, to state that, notwithstanding any delay which may have taken place in bringing the matter forward, it would seem very desirable to have British Columbian produce included within the provisions of the Treaty, if this can be effected.

I am, &c.
(Signed) W. R. MALCOLM.

No. 6.

Sir E. Thornton to the Earl of Derby.—(Received May 23.)

My Lord, *Washington, May* 10, 1875.

WITH reference to my despatch of the 12th ultimo, I have the honour to inclose copies of a further despatch, and of its inclosure which I have received from the Governor-General of Canada, relative to the refusal by the United States' Customs Authorities to admit fish and fish-oil free of duty into the United States from British Columbia, as the Canadian Government thinks that they ought to do, in accordance with the Article XXI of the Treaty of Washington.

The inclosure in Lord Dufferin's despatch which is a report of a Committee of the Privy Council of Canada of the 30th ultimo, contains a very clear statement of the case, but it seems to me that the question simply resolves itself into whether the United States' Government must be guided by the Treaty when British Columbia did not form a part of the Dominion of Canada, or by the Act of Congress of March 1, 1873 (*vide* revised Statutes, section 2,506) when it did form a part of the Dominion.

I am obliged, however, to acknowledge that I received no official announcement before the date of this Act, from the Governor-General of Canada, and made none to the Government of the United States, that British Columbia had been incorporated into the Dominion of Canada, nor am I aware that the fact has ever been officially communicated by Her Majesty's Government or by any British Authority to the United States' Government.

As I have already asked for your Lordship's instructions upon this matter in my despatch above mentioned, I do not con ider that it will be expedient to make any representations to Mr. Fish, until I shall receive them.

I have, &c.
(Signed) EDWD. THORNTON.

Inclosure 1 in No. 6.

The Earl of Dufferin to Sir E. Thornton.

Sir, *Government House, Ottawa, May* 3, 1875.

I HAVE the honour of communicating to you, for your information, a copy of a further order of the Privy Council of Canada, relative to the refusal of the United States' authorities to admit fish and fish oil from British Columbia duty free, in accordance with Article XXI. of the Treaty of Washington.

I have, &c.
(Signed) DUFFERIN.

Inclosure 2 in No. 6.

Report of a Committee of the Honourable the Privy Council, approved by His Excellency the Governor-General, on the 30th day of April, 1875.

THE Committee of Council have had under consideration the despatch of Her Majesty's Minister at Washington, dated 12th April, 1875, to your Excellency, in answer to a despatch inclosing the Minute of Council of the 1st April, 1875, relative to the refusal of the United States' authorities to admit fish and fish oil from British Columbia duty free, in accordance with Article XXI of the Treaty of Washington.

In his despatch Sir E. Thornton declines to make any representations on the subject to the United States' Government without instructions to that effect from the Earl of Derby, alleging that he would not be justified in doing so, as British Columbia was not, at the time of the signing of that Treaty, a part of Canada.

The Treaty bears date the 8th May, 1871, and Article XXXIII recites that Articles from XVIII to XXV inclusive, and Article XXX. shall take effect "as soon as the laws required to carry them into operation shall have been passed by the Imperial Parliament of Great Britain, by the Parliament of Canada, and the Legislature of Prince Edward Island on the one hand, and by the Congress of the United States on the other."

British Columbia became part of the Dominion of Canada on the 20th July, 1871, and the Act of the Parliament of Canada giving effect to the Washington Treaty as as respects Canada, was passed on the 14th June, 1872, British Columbia being then a part of the Dominion of Canada, and represented in Parliament.

The second section of that Act provided that "fish oil and fish of all kinds (except fish of the inland lakes, and of the rivers falling into them, and except fish preserved in oil) being the produce of the fisheries of the United States shall be admitted into Canada free of duty."

It is clear that under this provision fish, the produce of the United States' fisheries, would be admitted free into British Columbia as forming part of Canada.

By section 2,506 of the Act of Congress, entitled "duties upon imports passed on the 1st of March, 1873," it is provided that,

"Whenever the Resident of the United States shall receive satisfactory evidence that the Imperial Parliament of Great Britain, the Parliament of Canada, and the Legislature of Prince Edward Island have passed laws on their part to give full effect to the provisions of the Treaty between the United States and Great Britain, signed at the City of Washington on the 8th day of May, 1871, as contained in Articles XVIII to XXV inclusive, and Article XXX of the said Treaty, he is hereby authorized to issue his proclamation declaring that he has such evidence, and therefore from the date of such proclamation, and so long as the said Articles XVIII to XXV inclusive, and Article XXX of the said Treaty shall remain in force, according to the terms and conditions of Article XXXIII of the said Treaty, all fish oil and fish of all kinds (except fish of the inland lakes and of the rivers falling into them, and except fish preserved in oil) being the produce of the fisheries of the Dominion of Canada, or of Prince Edward Island, shall be admitted into the United States free of duty."

The President's Proclamation, issued on the 1st July, 1873, nearly two years after

British Columbia had become a part of the Dominion of Canada. From the language of the section above quoted it is clear that fish and fish-oil, the produce of the Dominion of Canada as then constituted, were to be admitted into the United States free of duty. In the opinion of the Committee it is susceptible of no other construction; and they do not hesitate to express the belief that when the subject shall be brought under the notice of the United States' Goverment that opinion will be concurred in.

The point under consideration was referred in February, 1874, to the Honourable A. A. Dorion, the present Chief Justice of Quebec, and then Minister of Justice, and his opinion was in accordance with that expressed in this Minute.

As an element in the consideration of this subject, it is worthy of note that the XXVIth Article of the Treaty providing for the free navigation of the River St. Lawrence also makes provision for the free navigation of one of the rivers of British Columbia, the Stikine, which flows through the territory of both countries. This evidence, taken in conjunction with the fact that provision is also made in the Treaty for Prince Edward Island and Newfoundland, the only other portions of British territory on the Continent, it may fairly be assumed that, apart from the effect of subsequent legislation, it was the intention of the framers of the Treaty to make it applicable to all parts of British America and the United States.

The Committee advise that a copy of this Minute, the Minute of the 1st of April, 1875, and the correspondence with Her Majesty's Minister at Washington, together with the opinion of the Honourable A. A. Dorion, be transmitted by your Excellency to the Imperial Government, with the request that the United States' Government be moved to consider the subject herein referred to, with a view to the removal of the grounds of complaint.

Certified,
(Signed) W. A. HIMSWORTH,
Clerk, Privy Council, Canada.,

Inclosure 3 in No. 6.

Report of a Committee of the Honourable the Privy Council, approved by His Excellency the Governor-General in Council, on the 1st April, 1875.

[See Inclosure 2 in No. 1.]

Inclosure 4 in No. 6.

Report by the Minister of Justice of Canada, dated February 5, 1874.

[See Inclosure 3 in No. 1.]

No. 7.

Mr. Lister to Mr. Malcolm.

Sir, *Foreign Office, May* 26, 1875.

WITH reference to your letter of the 13th instant I am directed by the Earl of Derby to transmit to you, to be laid before the Earl of Carnarvon, a copy of a despatch from Her Majesty's Minister at Washington,* in regard to the admission of fish and fish-oil, free of duty, into the United States from British Columbia.

I am, &c.
(Signed) T. V. LISTER.

No. 8.

Mr. Herbert to Lord Tenterden.—(*Received May* 29.)

Sir, *Downing Street, May* 28, 1875.

WITH reference to my letters of the 27th of April, and 7th and 13th instant, and to yours of the 6th of this month, respecting the denial on the part of the United States' authorities of the right of the Province of British Columbia to participate in

* No. 6.

those provisions of the Treaty of Washington under which fish and fish-oil, the produce of the Canadian fisheries, are entitled to admission into the United States free of duty, I am directed by the Earl of Carnarvon to transmit to you, to be laid before the Earl of Derby, a copy of a despatch from the Governor-General of the Dominion, inclosing a further Report of a Committee of the Privy Council, urging that representations be made to the United States' Government, with a view to the removal of the grounds of complaint.

The question is one which requires, it is clear, careful consideration, but unless the Earl of Derby is advised that the contention of the Canadian Government is one to which it is impossible for the Imperial Government to be a party, Lord Carnarvon would suggest, for Lord Derby's consideration, whether Sir E. Thornton might not be instructed to make a communication, in the terms of the Report of the Privy Council of Canada, or the consideration of the United States Government.

In the event of Lord Derby being of opinion that this course may properly be taken, Lord Carnarvon thinks that it might be advisable that the representation should be made to the United States Government at once, and without waiting for the reply from the Canadian Government as to the delay which appears to have occurred in Canada in bringing the question forward.

His Lordship would be glad to be informed at Lord Derby's early convenience of the course which he would propose to take in the matter.

I am, &c.
(Signed) ROBERT G. W. HERBERT.

Inclosure 1 in No. 8.

The Earl of Dufferin to the Earl of Carnarvon.

My Lord, *Government House, Ottawa, May* 1, 1875.

WITH reference to my despatches of the 8th and 19th of April, on the subject of the refusal by the United States' authorities to admit fish and fish-oil from British Columbia duty free, in accordance with the Treaty of Washington, I have the honour to transmit herewith a copy of a further Report of Council, of which my Government urge that representations be made to the United States Government, with a view to the removal of the grounds of complaint.

I have, &c.
(Signed) DUFFERIN.

Inclosure 2 in No. 8.

eport of a Committee of the Honourable the Privy Council, approved by his Excellency the Governor-General in Council, on the 30*th day of April,* 1875.

[See Inclosure 2 in No. 6.]

Inclosure 3 in No. 8.

Report by Minister of Justice, dated February 5, 1874.

[See Inclosure 3 in No. 1.]

Inclosure 4 in No. 8.

Report of a Committee of the Honourable the Privy Council, approved by his Excellency the Governor-General in Council, on the 1*st April,* 1875.

[See Inclosure 2 in No. 1.]

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Inclosure 5 in No. 8.

Sir E. Thornton to the Earl of Dufferin, April 12, 1875.

[See Inclosure 2 in No. 2.]

No. 9.

Mr. Lister to Mr. Herbert.

Sir, *Foreign Office, June* 4, 1875.

I HAVE laid before the Earl of Derby your letter of the 23rd ultimo, forwarding a further communication from the Canadian Government respecting the refusal of the United States' Customs authorities to admit free of duty fish and fish-oil the produce of British Columbia, and suggesting that Sir E. Thornton should at once be instructed to make a representation on the subject to the United States' Government, and I am directed by his Lordship to state to you in reply, for the information of the Earl of Carnarvon, that he has thought it desirable, before taking any other steps in the matter, to refer the papers to the Law Officers for their opinion.

I am, &c.
(Signed) T. V. LISTER.

No. 10.

Mr. Meade to Lord Tenterden.—(Received August 5.)

Sir, *Downing Street, August* 5, 1875.

WITH reference to your letter of the 6th of May, to the reply from this office of the 13th of that month, and to subsequent correspondence respecting the denial of the United States' authorities of the right of the Province of British Columbia to participate in those provisions of the Treaty of Washington, under which fish and fish oil, &c., the produce of the Canadian Fisheries, are entitled to admission into the United States free of duty, I am directed by the Earl of Carnarvon to transmit to you for the information of the Earl of Derby, a copy of a despatch from the Administrator of the Government of Canada, with its inclosure, in explanation of the delay which occurred in bringing this question to the notice of Her Majesty's Government.

I am, &c.
(Signed) R. H. MEADE.

Inclosure 1 in No. 10.

Lieutenant-General Haly to the Earl of Carnarvon.

My Lord, *Halifax, United States, July* 5, 1875.

WITH reference to your Lordship's despatch May 10th, relative to the exclusion of British Columbia by the United States Customs authorities from the benefit of importing fish and fish oil free of duty into the United States, under Article XXI of the Treaty of May 8th, 1871, in which your Lordship asked for some explanation of the delay, which was noticeable between the action complained of on the part of the United States, and the Report upon this action of the Canadian Department of Justice and of my Privy Council, I have now the honour to inclose, for your Lordship's information a minute of Council upon the question.

I have, &c.
(Signed) W. O'G. HALY.

Inclosure 2 in No. 10.

Report of a Committee of the Honourable the Privy Council, approved by His Excellency the Administrator of the Government, on the 25th day of June, 1875.

THE Committee of Council have had under consideration the despatch of the Right Honourable the Earl of Carnarvon of 13th May last, covering copy of Sir Edward

Thornton's despatch of 12th April, addressed to the Right Honourable the Earl of Derby, relating to the refusal of the United States' Customs authorities to allow the importation, free of duty, of fish and fish oil from British Columbia, in accordance with the provisions of Article XXI of the Treaty of May 8th, 1871, also inclosing a copy of a despatch from the Foreign Office to the Colonial Office, dated 6th May, 1875, calling attention to the fact that, while the Act giving effect to the provisions of the Treaty was passed on the 1st March, 1873, and the Report of the Canadian Department of Justice on the subject is dated 5th February, 1874, the Report of the Committee of the Privy Council of the Dominion was not made until the 1st April, of which delay in taking action in the matter Lord Derby considers it desirable to have some explanation before bringing it to the notice of Her Majesty's Government.

The Honourable Mr. Scott, acting for the Minister of Customs, to whom the despatch with inclosures has been referred, reports that he is not aware of any special cause for the delay in question, but believes it to have arisen from the fact that the original complaint upon which the question arose was not succeeded by other complaints, and the matter was overlooked in the great press of other public business, but as the main point required is to obtain a clear and authoritative decision as to the right of British Columbia to participate in the provisions of the Treaty of Washington in the free admission into the United States of fish and fish-oil the produce of that Province, he recommends that this explanation be forwarded to the Earl of Carnarvon for transmission to the Foreign Office, with the desire that proper steps may be taken to establish the said rights of British Columbia.

The Committee concur in the above recommendation, and submit the same for your Excellency's approval.

Certified,
(Signed) W. A. HIMSWORTH,
Clerk, Privy Council, Canada.

No. 11.

The Earl of Derby to Sir E. Thornton.

Sir, *Foreign Office, August* 11, 1875.

I REFERRED to the Law Officers of the Crown your despatch of the 12th of April, together with other papers on the same subject, respecting the refusal of the United States' Customs authorities to allow the importation free of duty of fish and fish-oil from British Columbia in accordance with the provisions of Article XXI of the Treaty of Washington of May 8, 1871, and I am advised that the words "Dominion of Canada," in the XXIst Article of the Treaty in question must be governed by the state of things existing in May, 1871, and cannot now receive a wider construction from the fact that additional territory has since been added to the Dominion. The contention of the Canadian Privy Council, founded upon the XXVIth Article of the Treaty of Washington, cannot be allowed, and no inference applicable in any way to the present case can be drawn from the provision that the navigation of certain specified rivers is to be free, but some confirmation of the view taken by the United States' Customs-house is given by Articles XVIII and XIX of the Treaty, which apply only to fisheries on the Eastern or Atlantic side of the Continent. Article XXIII provides the means by which the several articles named are to be carried into operation, but does not provide for extending the meaning or operation of those articles, and I am of opinion that the Act of Congress of the 1st of March, 1873, and the Act of the Parliament of Canada of the 14th June, 1872, must both be construed with reference to the "Dominion of Canada," as that Dominion was on the 8th of May, 1871, and under these circumstances I cannot instruct you to bring the matter to the notice of the United States' Government.

I am, &c.
(Signed) DERBY.

No. 12.

Lord Tenterden to Mr. Meade.

Sir, *Foreign Office, August* 11, 1875.

I AM directed by the Earl of Derby to transmit to you, for the information of the Earl of Carnarvon, the accompanying copy of a despatch which has been addressed to Sir E. Thornton,* on the subject of the refusal of the United States' Customs authorities to allow the importation, free of duty, of fish and fish-oil from British Columbia under the XXIst Article of the Treaty of Washington of May 8, 1871.

I am, &c.

(Signed) TENTERDEN.

No. 13.

The Earl of Derby to Sir E. Thornton.

Sir, *Foreign Office, August* 14, 1875.

I INCLOSE for your information copy of a letter from the Colonial Office on the subject of the importation into the United States, free of duty, of fish and fish-oil from British Columbia.†

I am, &c.

(Signed) DERBY.

No. 14.

Mr. Herbert to Lord Tenterden.—(Received August 20.)

(Extract.) *Downing Street, August* 19, 1875.

I AM directed by the Earl of Carnarvon to acknowledge the receipt of your letter of the 11th instant, inclosing a copy of a despatch addressed by the Earl of Derby to Sir Edward Thornton on the subject of the refusal of the United States Customs authorities to allow the importation, free of duty, of fish and fish-oil from British Columbia, the XXIst Article of the Treaty of Washington.

Lord Carnarvon has communicated to the officer administering the Government of Canada the substance of the Report of the Law Officers on this question in a despatch of which a copy is inclosed.

Inclosure in No. 14.

The Earl of Carnarvon to the Officer Administering the Government of Canada.

Sir, *Downing Street, August* 12, 1875.

HER Majesty's Government have been in communication with the Law Officers of the Crown on the subject of your despatch of the 1st of May last, inclosing a Report of the Privy Council on the subject of the refusal of the United States Customs authorities to allow the importation, free of duty, of fish and fish-oil from British Columbia, under the XXIst Article of the Treaty of Washington, and they are advised that the words "Dominion of Canada" in the Treaty of Washington, Article XXI, must be governed by the state of things existing in May, 1871, and cannot now receive a wider construction, from the fact that additional territory has since been added to the Dominion.

2. Her Majesty's Government have been further advised that it would not be possible to uphold the argument contained in the Report of the Committee of Privy Council of the 30th of April, 1875, upon the XXVIth Article of the Treaty of Washington, and they fear that no inference applicable in any way to the present case, can be drawn from the provision that the navigation of certain specified rivers is to be free.

3. On the other hand it would appear that some confirmation of the view taken by the United States' Customs-house may be deemed to be given by Articles XVIII and

* No. 11. † No. 10.

XIX of the Treaty, which apply only to fisheries on the Eastern or Atlantic side of the Continent.

4. The Article XXXIII provides the means by which the several Articles named are to be carried into operation, but does not provide for extending the meaning or operation of those Articles, and Her Majesty's Government are advised that the Act of Congress of the 1st March, 1873, and the Act of the Parliament of Canada of the 14th of June, 1872, must both be construed with reference to the "Dominion of Canada," as that Dominion was on the 8th of May, 1871.

5. I regret very much that for these reasons it has not appeared possible to instruct Sir E. Thornton to bring the matter before the United States' Government as proposed by the Dominion Government.

I have, &c.
(Signed) CARNARVON.

NORTH AMERICA. No. 5 (1876).

CORRESPONDENCE respecting the Non-Admission of Fish and Fish Oils, the produce of British Columbia, into the United States, Free of Duty, under the Treaty of Washington, May 8, 1871.

Presented to both Houses of Parliament by Command of Her Majesty. 1876.

LONDON:
PRINTED BY HARRISON AND SONS.

NORTH AMERICA. No. 7 (1876).

CORRESPONDENCE

RESPECTING THE

IMPOSITION OF DUTY

BY

THE UNITED STATES' AUTHORITIES

ON

TIN CANS

CONTAINING

FISH FROM CANADA.

Presented to both Houses of Parliament by Command of Her Majesty.
1876.

LONDON:
PRINTED BY HARRISON AND SONS.
[C.—1550.] *Price 3d.*

TABLE OF CONTENTS.

No.	Name.	Date.	Subject.	Page
1	Colonial Office	Apr. 27, 1875	Despatch from Lord Dufferin reporting the collection of duty by the United States' Customs authorities on tin cans containing Canadian fish	1
2	To Sir E. Thornton ..	May 1,	Sends copy of No. 1 for observations	4
3	To Colonial Office ..	1,	Acknowledges receipt of No. 1, which has been referred to Sir E. Thornton.. .. .	4
4	Sir E. Thornton . ..	Apr. 19,	Sends correspondence respecting the case of the "Lizzie Dakers"	4
5	To Colonial Office ..	May 6,	Sends copy of No. 4, and proposes to approve Sir E. Thornton's action	7
6	Colonial Office	10,	Concurs in approval of Sir E. Thornton	7
7	To Sir E. Thornton ..	13,	Approves his note to Mr. Cadwalader in No. 4 ..	7
8	Colonial Office	28,	Further despatch from Lord Dufferin, urging that a representation be made to the United States' Government	7
9	To Sir E. Thornton ..	June 7,	Sends copy of No. 8 for such steps as seem advisable	10
10	To Colonial Office ..	7,	Answer to No. 8. Sir E. Thornton is to take such steps as seem advisable	10
11	Sir E. Thornton . ..	21,	Mr. Cadwalader's answer respecting the duty charged on tin cans. Remarks	10
12	To Colonial Office ..	July 6,	Sends copy of No. 11	12
13	Sir E. Thornton . ..	Sept. 6,	Should the claim of the master of the "Lizzie Dakers" be presented to the United States' Government?	12
14	To Colonial Office ..	22,	Sends copy of No. 13 for opinion	14
15	Colonial Office	Oct. 2,	Sir E. Thornton should ascertain whether the United States' Government will grant compensation ..	15
16	„ „ .. .	6,	What instructions have been sent to Sir E. Thornton?	15
17	To Sir E. Thornton ..	11,	Are the United States' Government prepared to grant compensation?	15
18	To Colonial Office ..	12,	Sends copy of No. 17	16
19	Sir E. Thornton . ..	Nov. 22,	United States' Government are unable to grant compensation without a special Act of Congress ..	16
20	To Colonial Office ..	Dec. 10,	Sends copy of No. 19	18
21	Colonial Office	18,	Acknowledges receipt of No. 20	18
22	Sir E. Thornton . ..	Jan. 24, 1876	Mr. Fish will endeavour to obtain a repeal of the duty upon tin cans..	18
23	To Colonial Office ..	Feb. 8,	Sends copy of No. 22	18

Correspondence respecting the Imposition of Duty by the United States' Authorities on Tin Cans containing Fish from Canada.

No. 1.

Mr. Herbert to Lord Tenterden.—(*Received April* 28.)

Sir, *Downing Street, April* 27, 1875.

WITH reference to the question asked by Sir A. Monck in the House of Commons on the 9th of April and to Mr. Bourke's reply, I am directed by the Earl of Carnarvon to transmit to you, to be laid before the Earl of Derby, a copy of a despatch from the Governor-General of Canada, inclosing a Report of a Committee of the Privy Council respecting the collection of duty by the United States' Customs authorities upon tin cans containing fish, being the produce of the Canadian fisheries, which proceeding would appear to be inconsistent with the intention of the XXIst Article of the Treaty of Washington, and practically to render its provisions inoperative in respect of an important class of goods.

Lord Carnarvon would be glad to be informed of any communication which may be received from Sir Edward Thornton in reference to this matter, or of any communication which Lord Derby may address to him on the subject, in consequence of this remonstrance from the Canadian Government.

I am, &c.

(Signed) ROBERT G. W. HERBERT.

Inclosure 1 in No. 1.

The Earl of Dufferin to the Earl of Carnarvon.

My Lord, *Government House, Ottawa, April* 7, 1875.

I HAVE the honour of submitting, for your Lordship's information, a copy of a Report of a Committee of the Privy Council, and accompanying papers having reference to the collection of duty by the United States' Customs authorities upon tin cans containing fish, being the produce of the Canadian fisheries.

A copy of this Minute of Council has been forwarded to Sir E. Thornton, Her Majesty's Minister at Washington.

I have, &c.

(Signed) DUFFERIN.

Inclosure 2 in No. 1.

Report of a Committee of the Honourable the Privy Council, approved by his Excellency the Governor-General on the 7th day of April, 1875.

THE Committee of the Privy Council have had under consideration a Report dated 31st March, 1875, from the Honourable the Minister of Customs, submitting certain papers having reference to the collection of duty by the United States' Customs upon tin cans containing fish, being the produce of the Canadian fisheries.

These papers consist of two letters from Mr. Thomas G. Bourne, of the city of St. John, New Brunswick, dated respectively 7th January and 18th February, 1875, stating that, having consigned 50 cases of canned lobsters to Philadelphia, accompanied by a United States' Consul's certificate that the fish was the produce of Canadian fisheries, the Collector of that port refused to accept entry without payment of duty, which letters are accompanied by an affidavit of Charles Buckard, Master of the schooner "Lizzie Dakers," in which vessel the fish was conveyed to Philadelphia, confirmatory of Mr. Bourne's statements.

In addition to the above the Minister also submits two telegrams from the Collector of Customs of Philadelphia, and one from the Collector of the Port of Boston, dated 13th and 15th March ultimo, to the Commissioner of Customs, from which it will be seen that, while they disclaim the collection of duty on the fish, they have charged a very onerous duty upon the cans in which it is contained, viz., 1½ cents each upon quart cans, and 1½ cents for each additional quart.

In connection with these papers the Minister further invites the attention of your Excellency in Council to the XXIst Article of the Treaty of Washington, which is as follows:—

"It is agreed that for the term of years mentioned in Article XXXIII of this Treaty fish-oil and fish of all kinds (except fish of the inland lakes and of the rivers falling in to them, and except fish preserved in oil), being the produce of the fisheries of the United States, or of the Dominion of Canada, or of Prince Edward Island, shall be admitted into each country respectively free of duty,"

The Minister submits that the language of this Article is very explicit, and that any measure which imposes a duty upon ordinary and usual packages which it is the custom of parties engaged in the trade to use, for the preservation and transportation of the fish, is, in effect, the imposition of a duty upon the fish itself, and cannot be regarded otherwise than as a violation of the Treaty.

That the cans also upon which this duty is imposed are of no value whatever after the contents are removed, and are only used because of the perishable nature of the commodity, and are essential to its preservation in a fresh condition.

The Minister further represents that all similar canned fish, the produce of the fisheries of the United States, is invariably admitted to entry in all ports of Canada free of duty upon both cans and their contents, that being in accordance with the letter and spirit of the Treaty; and he, therefore, recommends that the question be submitted to Her Majesty's Ambassador to the United States for such action as may be necessary to secure a strict observance of the Treaty obligations referred to.

The Committee fully concur in the views and recommendation submitted in the said Report, and advise that a copy of this Minute, and of the papers therein referred to, to be transmitted by your Excellency to Sir Edward Thornton.

Certified,

(Signed) W. A. HIMSWORTH,
Clerk Privy Council, Canada.

Inclosure 3 in No. 1.

Mr. Bourne to Mr. Mackenzie.

(Extract.) *St. John, N.B., January 7, 1875.*

I VENTURE to trouble you with a few facts which may be of interest at the present time.

In October last I had a vessel proceeding to Philadelphia, and relying on the clauses of the Washington Treaty making fish of all kinds free between the two countries, I shipped fifty cases of preserved lobsters.

They were regularly entered on the ship's manifest, and accompanied by a proper certificate signed by the American Consul here, who assured me that there was no duty. On arrival at Philadelphia they were refused entry unless 35 per cent. duty was paid. The Captain appealed to the Collector personally, but could get no other answer, so they were brought back with the loss of freight and insurance both ways, besides loss of time, &c. This appears to me to be very one-sided reciprocity, for it is within my own personal knowledge that numbers of American houses catch and can or preserve lobsters all along our coasts and supply the upper

provinces of the Dominion with them free of duty, while ours are charged 35 per cent. in their markets.

I wish to observe that mine is not an isolated case, and that I am fully prepared to prove my statements.

On referring to the Dominion Tariff I find "fish preserved not in oil free."

You will, I trust, excuse me troubling you with this trifling matter, in which, however, many are interested besides myself.

Inclosure 4 in No. 1.

Mr. Bourne to Mr. Johnson.

Sir, *St. John, N.B., February* 18, 1875.

I HAVE the honour to acknowledge the receipt of your letter of the 15th ultimo, and regret that I have been unable to make an earlier reply.

I herewith inclose the sworn statement of the captain of the vessel, and also of the Consul's certificate that the goods have been actually relanded at St. John. The certificate you will be good enough to return to me, or forward it to the Customs authorities at Philadelphia, so as to release my Agent from liability.

My direct loss I estimate as follows :—

	D. c.
Freight on 50 cans, Philadelphia and back, 50 cents	25 00
Insurance (both ways)	14 50
Consul's certificate, outwards	2 50
„ „ for discharge of bond	5 00
Cartage and wharfage	5 00
Total	52 00

This is actual money loss here without any allowance for loss of time on the goods, or expenses at Philadelphia.

I beg leave to thank you for your prompt attention to the subject, and to express the hope that I may at least be the means of placing matters on a more satisfactory basis than heretofore.

I am, &c.

(Signed) THOS. G. BOURNE.

Inclosure 5 in No. 1.

Affidavit.

I, CHARLES BUCKARD, Master of the British schooner "Lizzie Dakers," of St. John, New Brunswick, of which vessel, at the time herein mentioned, Thomas G. Bourne, of St. John, New Brunswick, was the managing owner, do hereby solemnly swear and declare, that the said schooner being on or about the 16th of October last past under charter to proceed to Philadelphia, in the United States of America, I took on board fifty cases of preserved lobsters in cans, for sale at that port, on account of the said Thomas G. Bourne. That on arrival at Philadelphia I requested entry of the said goods under the terms of the Washington Treaty, as being free of duty. That they were refused entry on those terms, and that on personal application to the Collector of the said port (accompanied by the consignee of the vessel), I was told that they could only be entered subject to a duty of 35 per cent. *ad valorem*. That the goods in question were accompanied by a proper certificate, obtained from the United States' Consul at St. John, and that in consequence of the above decision the said goods were brought back to St. John, under bonds given by the agent of the vessel, rendering them liable until such bonds had been cancelled by the sworn testimony of the master and mate of the said vessel, made before the United States' Consul at St. John, New Brunswick. That the said goods had been actually relanded at St. John, the port from which they were originally shipped, and that the said goods were actually brought back and relanded at St. John, New Brunswick, between the 29th and 31st days of December, 1874, according to the terms of the certificate herewith enclosed.

(Signed) CHAS. BUCKARD

Before me,

(Signed) P. GLEESON, *J.P.*

Inclosure 6 in No. 1.

Mr. Simmons to Mr. Johnston.

(Telegraphic.) *Boston, March* 15, 1875.

LOBSTERS in cans, produce of Canadian fisheries, free; cans dutiable.

Inclosure 7 in No. 1.

Mr. Cornby to Mr. Johnston.

(Telegraphic.) *Philadelphia, March* 13, 1875.

ALL fish oil, and fish of all kinds, except fish of the inland lakes, and of the rivers falling into them, and except fish preserved in oil, being the produce of the fisheries of the Dominion of Canada, admitted free of duty.

Inclosure 8 in No. 1.

Mr. Cornby to Mr. Johnston.

(Telegraphic.) *Philadelphia, March* 15, 1875.

LOBSTERS and oysters free, cans or packages made of tin or other material, not exceeding one quart, duty 1½ c. each, exceeding one quart, additional duty 1½ c. for each additional quart.

No. 2.

The Earl of Derby to Sir E. Thornton.

Sir, *Foreign Office, May* 1, 1875.

I TRANSMIT to you, for your information, the accompanying copy of a letter which has been received from the Colonial Office,* inclosing copy of a despatch from the Governor-General of Canada, together with a Report of his Privy Council and other documents relative to the imposition by the United States' Customs authorities of duty upon tin cans containing fish, the produce of the Canadian fisheries, and I have to request you to furnish me with any observations which you may have to make upon this matter.

The inclosures to the Colonial Office letter are not sent herewith, as they would appear to have been forwarded to you direct from Canada.

I am, &c.

(Signed) DERBY.

No. 3.

Mr. Lister to Mr. Herbert.

Sir, *Foreign Office, May* 1, 1875.

I AM directed by the Earl of Derby to acknowledge the receipt of your letter of the 27th ultimo, together with its inclosure, relative to the imposition of the United States' Customs authorities of duty upon tin cans containing fish, the produce of the Canadian fisheries, and I am to inform you in reply that no report on the subject has yet been received from Her Majesty's Minister at Washington, but that your letter has been referred to him for observations.

I am, &c.

(Signed) T. V. LISTER.

No. 4.

Sir E. Thornton to the Earl of Derby.—(*Received May* 2.)

My Lord, *Washington, April* 19, 1875.

I HAVE the honour to inclose copy of a despatch which I have received from the Governor-General of Canada, and in which his Excellency forwards me a Report of a Committee of the Privy Council of Canada, relative to the refusal of the Customs

* No. 1.

authorities to allow the import, free of duty, of some tin cans containing lobster, the produce of the Dominion of Canada, and to the collection of duties upon tin cans containing fish from Canada.

I also inclose three printed copies of an Act of Congress passed during the last Session of Congress, and approved on the 8th of February last, making certain alterations in the Customs' and internal revenue laws. At the end of the 4th section of this Act is a proviso imposing a duty upon tin cans containing fish admitted free of duty.

I at first thought that the refusal to admit the lobster in tins brought by the "Lizzie Dakers" to Philadelphia was in accordance with this proviso, for I cannot find that there is any such duty as that of 35 per cent. *ad valorem* upon lobster in tins; but as the arrival of the "Lizzie Dakers" was previous to the passing of the inclosed Act, I presume that the Customs authorities chose to consider the tin cans as coming under the head of "manufactures of tin," upon which there is a duty of 35 per cent.

I thought it, however, expedient to address a note to Mr. Cadwalader, Acting Secretary of State in the absence of Mr. Fish, in which I have put it that an attempt was made to levy duty upon the fish, and that this was an infraction of the XXIst Article of the Treaty of May 8, 1871.

I also adverted to the proviso of the Act of February 8, 1875, levying a duty upon tin cans containing fish free of duty, which it appears to me is entirely opposed to the spirit of the Treaty of May 8, 1871, for it is of course impossible to import fish of that sort without the protection of these tin cans, which are themselves, when once broken open, of no use or value whatever.

Your Lordship will observe that the Act imposes the duty upon "cans or packages made of tin or other material," so that if this principle is admitted, there is no reason why such a duty should not be imposed upon tin cans, barrels, cases, or any other package containing fish as would prohibit entirely the importation of fish from Canada, and render the stipulation of the Treaty illusory.

I have the honour to inclose a copy of my note above-mentioned.

I have, &c.

(Signed) EDWD. THORNTON.

Inclosure 1 in No. 4.

The Earl of Dufferin to the Earl of Carnarvon, April 8, 1875.

[See Inclosure 1 in No. 1.]

Inclosure 2 in No. 4.

Report of a Committee of the Honourable the Privy Council, approved by his Excellency the Governor-General on the 7th day of April, 1875; *with Annexes.*

[See Inclosure 2 in No. 1.]

Inclosure 3 in No. 4.

Extract from an Act to amend existing Customs and Internal Revenue Laws, and for other purposes.

Sec. 4. That on and after the date of the passage of this Act, in lieu of the duties imposed by law on the articles in this section enumerated, there shall be levied, collected, and paid on the goods, wares, and merchandize in this section enumerated and provided for, imported from foreign countries, the following duties and rates of duties, that is to say:—

On hops, eight cents per pound.

On chromate and bichromate of potassa, four cents per pound.

On macaroni and vermicelli, and on all similar preparations, two cents per pound.

On nitro-benzole, or oil of mirbane, ten cents per pound.

On tin in plates or sheets and on terne and tagger's tin, one and one-tenth cents per pound.

On anchovies and sardines, packed in oil or otherwise, in tin boxes, fifteen cents per whole box, measuring not more than five inches long, four inches wide, and three and a-half inches deep; seven and one-half cents for each half-box, measuring not more than five inches long, four inches wide, and one and five-eighths inches deep; and four cents for each quarter-box, measuring not more than four inches and three-quarters long, three and one-half inches wide, and one and one-half inches deep; when imported in any other form, sixty per centum *ad valorem:* Provided, that cans or packages made of tin or other material containing fish of any kind admitted free of duty under any existing law or Treaty, not exceeding one quart in contents, shall be subject to a duty of one cent and a-half on each can or package; and when exceeding one quart, shall be subject to an additional duty of one cent and a-half for each additional quart, or fractional part thereof.

Inclosure 4 in No. 4.

Sir E. Thornton to Mr. Cadwalader.

Sir, *Washington, April* 15, 1875.

I HAVE the honour to invite your attention to the following circumstances which have been communicated to me by the Governor-General of the Dominion of Canada:—

It seems that the British schooner "Lizzie Dakers," of St. John, New Brunswick, owned by Thomas G. Bourne, of St. John, New Brunswick, being, on or about the 16th of October last, under charter to proceed to Philadelphia, took on board fifty cases of preserved lobsters in cans.

On arrival at that port, the master requested entry of these goods under the terms of the Washington Treaty, as being free of duty. He states that they were refused entry, and that, on personal application to the Collector of the Port, he was told that they could only be entered subject to a duty of 35 per cent. *ad valorem.* The goods were accompanied by a proper certificate obtained from the United States' Consul at St. John; but, in consequence of the decision of the Collector, the master took the fifty cases back again, and they were relanded at St. John. The owner of the goods claims that the actual loss on the goods in freight, insurance, and other expenses has amounted to 52 dollars, without any allowance for loss of time on the goods or expenses at Philadelphia.

If the facts are as stated by the master of the "Lizzie Dakers," it seems to me that the refusal to receive the goods in question free of duty was an infraction of the Treaty of May 8, 1871, and of the Act of Congress of March 1, 1873, and that the owner of the goods is entitled to compensation for the loss he has suffered; and I have the honour to ask that inquiries may be instituted upon the subject.

A representation has also been forwarded to me by the Governor-General of Canada, relative to a duty levied upon the tin cans containing lobster and other fresh fish imported into the United States from Canada.

I presume that the imposition of this duty is in accordance with the proviso at the end of the 4th section of the Act of Congress of February 8, 1875, which enacts "that cans or packages made of tin or other material containing fish of any kind admitted free of duty under any existing law or Treaty, not exceeding one quart in contents, shall be liable to a duty of 1½ cent on each can or package." But I must be allowed to observe that this enactment seems to me to be entirely contrary to the spirit of the XXIst Article of the Treaty above mentioned, which provides for the free admission of fish of all kinds into each country.

The tin can which contains lobster and other fresh fish is not like other packages or vessels containing duty-free articles, upon which packages or vessels, such as carboys, casks, barrels, &c., duty is levied; for these are, when emptied, saleable and useful articles, whilst the tin cans containing fish are necessary to the preservation of the contents, but, when opened, are necessarily destroyed, and are unsaleable and useless.

I should hesitate to believe that this particular proviso of the Act of Congress of February 8, 1875, was especially directed against the fish preserved in cans, the produce of the Dominion of Canada and of Prince Edward Island, which suffers from this duty; whilst, on the other hand, no duty is levied in Canada upon tin cans containing fish, the produce of the United States.

I venture to hope that the Government of the United States, which, I am convinced, is imbued with a spirit of liberality upon this matter, will acquiesce in

my view, and that measures may at least be taken during the next Session of Congress for a reconsideration of the enactment in question.

I have, &c.

(Signed) EDWD. THORNTON.

No. 5.

Lord Tenterden to Mr. Herbert.

Sir, *Foreign Office, May* 6, 1875.

WITH reference to your letter of the 27th ultimo, relative to the levy of duty at Philadelphia on tin cans containing lobsters, the produce of the Canadian fisheries, I am directed by the Earl of Derby to transmit to you a copy of a despatch from Sir E. Thornton on the subject;* and I am to request you to state to the Earl of Carnarvon that Lord Derby proposes, with his concurrence, to approve the note which Sir E. Thornton has addressed to the Acting Secretary of State, calling the attention of the United States' Government to the matter.

I am, &c.

(Signed) TENTERDEN.

No. 6.

Mr. Herbert to Lord Tenterden.—(Received May 11.)

Sir, *Downing Street, May* 10, 1875

I AM directed by the Earl of Carnarvon to acknowledge the receipt of your letter of the 6th instant, inclosing a despatch from Sir E. Thornton, relative to a duty charged in the United States of America on tin cans containing fish, the levy of which duty in the case of fish, the produce of British North America, appears to be inconsistent with the provisions of the Treaty of Washington.

Lord Carnarvon desires me to state that he concurs in the approval which Lord Derby proposes to convey to Sir E. Thornton of the communication which he has addressed to the United States' Government on this subject.

I am, &c.

(Signed) ROBERT G. W. HERBERT.

No. 7.

The Earl of Derby to Sir E. Thornton.

Sir, *Foreign Office, May* 13, 1875.

I HAVE had under my consideration, in communication with Her Majesty's Secretary of State for the Colonies, your despatch of the 19th ultimo, forwarding correspondence respecting the levy of duty by the Customs' authorities at Philadelphia on tin cans containing fish, the produce of the Dominion of Canada, and I have to state to you that the note which you addressed to Mr. Cadwalader on the subject on the 15th ultimo is approved by Her Majesty's Government.

I am, &c.

(Signed) DERBY.

No. 8.

Mr. Herbert to Lord Tenterden.—(Received May 29.)

(Extract.) *Downing Street, May* 28, 1875.

WITH reference to my letter of the 27th of April, and to your reply of the 6th instant, I am directed by the Earl of Carnarvon to transmit to you, to be laid before the Earl of Derby, a copy of a despatch from the Governor-General of

* No. 4.

Canada, inclosing a further Report of the Privy Council, urging that a representation may be addressed to the Government of the United States, with a view to the removal of the duty recently imposed by the Government upon tin cans and other packages containing duty-free fish.

Lord Carnarvon would recommend that these papers should be communicated at once to Sir E. Thornton. In the meantime his Lordship proposes to inform the Officer Administering the Government that this matter is receiving the best attention of Her Majesty's Government, and to refer him to a Secret despatch addressed to him on the 11th instant, in which his Lordship forwarded to him copy of the communication which Sir E. Thornton addressed to Mr. Cadwalader on the 15th of April, of the full purport of which the Canadian Government do not appear to have been aware when writing their Report of the 30th of April, now forwarded.

Inclosure 1 in No. 8.

The Earl of Dufferin to the Earl of Carnarvon.

My Lord, *Government House, Ottawa, May* 1, 1875.

IN my despatch of the 7th of April I had the honour of forwarding to your Lordship a copy of a Minute of the Privy Council, which has been communicated to Her Majesty's Minister at Washington, remonstrating against the exaction by the United States' Customs authorities of the duty lately imposed upon tin cans containing fish, being the produce of the Canadian Fisheries.

I have now the honour of inclosing a copy of a further Report of Council, which contains an urgent request from my Government that the attention of the United States may be drawn to the subject, and that the Executive may be moved to adopt measures for the removal of the impost complained of.

I have, &c.

(Signed) DUFFERIN.

Inclosure 2 in No. 8.

Report of a Committee of the Honourable the Privy Council, approved by his Excellency the Governor-General on the 30th day of April, 1875.

THE Committee of Council have had under consideration the despatches from Sir Edward Thornton, British Minister at Washington, to your Excellency, under date the 12th and 16th April, 1875, in answer to a despatch inclosing the minute of the Privy Council, dated 7th April, 1875, remonstrating against the exaction by the United States' Customs authorities of the duty lately imposed upon tin cans, containing fish imported from the Dominion of Canada, which, by the 21st Article of the Treaty of Washington, is to be admitted free of duty. That Article reads as follows:—

"It is agreed that, for the term of years mentioned in Article XXXIII of this Treaty, fish oil and fish of all kinds (except fish of the inland lakes, and of the rivers falling into them, and except fish preserved in oil) being the produce of the fisheries of the United States or of the Dominion of Canada, or of Prince Edward Island, shall be admitted into each country respectively free of duty."

The Trade between Canada and the United States in fish, including oysters and lobsters, inclosed in hermetically sealed cans of tin, is large and important; the value of American oysters imported into Canada last year in tin cans, chiefly from Baltimore, was 110,000 dollars, and since the Treaty of Washington no duty has been charged on tin or other packages containing fish from the United States, free under the XXIst Article of the Treaty, and as no complaints have been made to the Canadian authorities, it may fairly be assumed that the American Government considered the language of the XXIst Article sufficiently clear to admit the tin and other packages containing fish free of duty. That interpretation seemed consistent with the spirit of the Treaty, as a large portion of the fish trade could only be carried on successfully in hermetically sealed cans, and if it had been contemplated to exempt fish so prepared it is but reasonable to infer that the restriction would have been stated.

On the 8th February last the Congress of the United States passed an Act, No. 11, amending "Existing Customs and Internal Revenue Laws, and for other purposes," the 4th section of which contains the following provision:—

"That cans or packages made of tin, or other material, containing fish of any kind, admitted free of duty under any existing Law or Treaty, not exceeding one quart in contents, shall be subject to a duty of 1½ c. on each can or package, and when exceeding one quart shall be subject to an additional duty of 1½ c. for each additional quart or fractional part thereof."

It seems clear, from the introduction of the word Treaty, that this proviso expressly defeats the construction hitherto placed upon the XXIst Article of the Treaty, the tin cans are necessary for the preservation and transportation of the fish, and on removal of the contents the cans have no value whatever; it is obvious therefore that the imposition of an arbitrary duty on the cans is equivalent to a duty on the fish, and in the opinion of the Committee is a violation of the XXIst Article of the Treaty.

The Committee are disposed to think that the proviso in the Act of Congress referred to must have been inadvertently inserted, and without considering the restriction it would impose on the fair and reasonable interpretation of the Article in the Treaty, as it is impossible to believe that it was intended to violate express Treaty stipulations, and they trust that when the subject is brought under the notice of the United States' Government, the just grounds of complaint on the part of the Dominion Government will be removed.

The Committee, therefore, advise that a copy of this Minute, and also a copy of the Minute approved on the 7th April instant, with the letters and documents therein referred to, be transmitted by your Excellency to the Right Honourable the Secretary of State for the Colonies, with a request that the attention of the Government of the United States may be called to the subject, and that it may be moved to adopt measures for the removal of the duty complained of.

Certified,

(Signed) W. A. HIMSWORTH,
Clerk Privy Council, Canada.

Inclosure 3 in No. 8.

Sir E. Thornton to the Earl of Dufferin.

My Lord, *Washington, April* 12, 1875.

I HAVE the honour to acknowledge the receipt of your Excellency's despatch of the 8th instant, forwarding a Report of a Committee of the Privy Council relative to the collection of duty by the United States' Authorities upon tin cans containing fish, being the produce of the Canadian Fisheries.

Although it is not so stated in the declaration of the Master of the "Lizzie Dakers," or in Mr. Bourne's letter of the 18th of February last, I presume that the duty of 35 per cent. *ad valorem* demanded by the Collector at Philadelphia was upon the tin cans, and not upon the lobster which they contained; for 35 per cent. is the duty imposed by the Tariff upon manufactures of tin, whilst I find no such duty upon preserved lobster, the duty on the latter being, as I understand the Tariff, 50 cents. per 100 lbs.

With regard to the duty on the tin cans I must make further inquiries, and shall then probably make a verbal representation to Mr. Fish upon the subject. But, as far as I can as yet learn, the general rule seems to be to levy duties upon the vessels, of whatever sort they may be, which contain the duty-free articles, the difference however being that these vessels can generally be used again, whilst the tin cans, when once opened, can be of no use.

I have, &c.

(Signed) EDWD. THORNTON.

No. 9.

The Earl of Derby to Sir E. Thornton.

Sir, *Foreign Office, June* 7, 1875.

WITH reference to my despatch of the 13th ultimo, I transmit to you a copy of a letter from the Colonial Office* forwarding a despatch from the Canadian Government which suggests that a representation should be made to the United States' Government, against the duty recently imposed upon tin cans and other packages containing duty-free fish imported into the United States, and I have to instruct you to take such steps as you may think advisable for obtaining the removal of the duty in question.

I am, &c.
(Signed) DEBBY.

No. 10.

Lord Tenterden to Mr. Herbert.

Sir, *Foreign Office, June* 7, 1875.

I AM directed by the Earl of Derby to acknowledge the receipt of your letter of the 28th ultimo, forwarding a further communication from the Canadian Government as to the duty recently imposed in the United States upon tin cans containing duty-free fish, and I am to state to you, for the information of the Earl of Carnarvon, that copies of these papers have been sent to Sir E. Thornton, and that he has been instructed to take such steps as he may think advisable for obtaining the removal of the duty in question.

I am, &c.
(Signed) TENTERDEN.

No. 11.

Sir E. Thornton to the Earl of Derby.—(Received July 3.)

(Extract.) *Washington, June* 21, 1875.

WITH reference to my despatch of the 19th of April last, I have the honour to inclose copies of a note and of its inclosures which I have at length received from Mr. Cadwalader, Acting Secretary of State, in answer to mine of the 15th of April last, relative to the refusal of the Collector of Customs at Philadelphia to admit free of duty certain tins of lobster coming from Canada, and to the imposition of a duty upon tin cans containing fish, the latter being free of duty by the provisions of the Treaty of May 8, 1871.

Your Lordship will perceive that, in the first instance, the Collector of Customs of Philadelphia excuses himself by supposing that the lobsters in question were preserved in oil, and therefore excepted from free admission by the terms of the Treaty. I must acknowledge that I am surprised that the Master of the "Lizzie Dakers" took back the lobster in question without even entering a protest before Her Majesty's Consul or making any representation to Her Majesty's Minister, in either of which cases the matter would probably have been investigated, and it would have been proved whether the lobster could have been admitted or not under the terms of the Treaty.

With regard to the duty imposed upon tin cans containing fish which itself would be free of duty, Mr. Cadwalader, who has not sent me a copy of the communication from the Secretary of the Treasury, states that the latter thinks that it is not proper for him to express an opinion in reference to this legislation in the absence of a request from Congress so to do. The Secretary of the Treasury adds that, in a case of doubtful construction, he would be slow to construe an Act of Congress so that it might be held to do violence to a Treaty stipulation, but that in this instance the language of the Act is so clear as to admit of no doubt, and that he considers that the assessment of duty on tin cans containing fish imported under the Treaty is required by such Act.

* No. 8.

I am to-day forwarding copies of this note and of its inclosures to his Excellency the Administrator of the Government of Canada.

I may observe that, since I addressed my note on the 19th of April last to Mr. Fish, the Secretary of the Treasury has issued an order to the effect that barrels containing fish free of duty by Treaty are not subject to the duty imposed by the Act of Congress. Yet I cannot see why barrels should be exempt when tin cans are not so; for the Act imposes duty upon "cans or packages made of tin or other material containing fish of any kind admitted free of duty under any existing law or Treaty, &c."

Inclosure 1 in No. 11.

Mr. Cadwalader to Sir E. Thornton.

Sir, *Department of State, Washington, June* 19, 1875.

REFERRING to your note of the 15th April last, inviting the attention of this Department to the imposition of a duty on an importation of canned lobsters by the "Lizzie Dakers," and also to the imposition of a duty on tin cans containing fish admitted free of duty, I have the honour to inform you that a communication upon the subject has been received from the Secretary of the Treasury, bearing date the 16th June, to whom a copy of your note had been referred.

In reference to the particular information by the "Lizzie Dakers," the Secretary of the Treasury forwards a copy of a letter addressed to the Collector of Customs at Philadelphia, under date of May 3, requesting a report in reference to the case, and of the reply of the Collector of Customs thereto.

A copy of this correspondence is herewith inclosed. You will perceive from the communication of the Collector the grounds on which he deemed the importation in question not entitled to free entry. The Secretary of the Treasury states, in reference thereto, that, as the importation had been warehoused and withdrawn for immediate exportation prior to this report, that his Department has no means of determining with certainty, at the present time, whether the same was or was not entitled to free entry, and that he is unable, with the facts in his possession, to express an opinion as to whether the goods were entitled to free admission.

In regard to the duty on tin cans imposed by the Act of February 8, 1875, the Secretary of the Treasury is of opinion that it is not proper for him to express an opinion in reference to this legislation in the absence of a request from Congress so to do. He adds, that in a case of doubtful construction he would be slow to construe an Act of Congress so that it might be held to do violence to a Treaty stipulation, but that in this instance the language of the Act is so clear as to admit of no doubt, and that he considers that the assessment of duty on tin cans containing fish imported under the Treaty to be required by such Act.

I have, &c.

(Signed) JOHN L. CADWALADER.

Inclosure 2 in No. 11.

Mr. Hartley to Mr. Cornby.

Sir, *Treasury Department, Washington, May* 3, 1875.

I INCLOSE herewith an extract from a letter of the British Minister, addressed to the Department of State, under date of the 15th ultimo, in which it is alleged that you refused free entry of a certain importation of fifty cases of pressed lobster, per schooner "Lizzie Dakers," from St. John, New Brunswick.

Referring to Department's decision of July 10th, 1873 (Synopsis 1622), I will thank you to report, in what respect, if any, the preserved lobsters in question differ from those covered by said decision, stating whether you refused free entry of said merchandize, as alleged, and if so, what ground you had for such action.

I have, &c.

(Signed) J. F. HARTLEY.

Inclosure 3 in No. 11.

Mr. Cornby to Mr. Bristow.

Sir, *Custom House, Philadelphia, May* 8, 1876.

I HAVE the honour to acknowledge the receipt of your letter of the 3rd instant, containing copy of an extract from a letter of the British Minister, addressed to the Department of State under date of the 15th ultimo, in which it is alleged that you [I] refused free entry of a certain importation of fifty cases of preserved lobsters, per schooner "Lizzie Dakers," from St. John, New Brunswick, and in reply respectfully beg leave to say that, after investigation, I cannot find that free entry was refused for the fifty cases of lobsters except from the supposed fact that the lobsters being preserved in oil; Revised Statutes, Section 2506: "All fish oil and fish of all kinds (except fish of the inland lakes and rivers falling into them, and except fish preserved in oil), being the produce of the fisheries of the Dominion of Canada or of Prince Edward Island, shall be admitted into the United States free of duty.

I have no doubt that the lobsters were not entitled to free entry under the above section, as it appears they were warehoused and withdrawn for immediate exportation.

I am, &c.
(Signed) S. J. CORNBY, *Collector.*

No. 12.

Mr. Lister to Mr. Herbert.

Sir, *Foreign Office, July* 6, 1875.

WITH reference to your letter of the 10th of May, I am directed by the Earl of Derby to transmit to you, to be laid before the Earl of Carnarvon, a copy of a despatch from Her Majesty's Minister in Washington,* in regard to the imposition of a duty upon tin cans containing fish imported from Canada into the United States.

I am, &c.
(Signed) T. V. LISTER.

No. 13.

Sir E. Thornton to the Earl of Derby.—(Received September 19.)

My Lord, *Washington, September* 6, 1875.

WITH reference to my despatch of the 21st of June last, I have the honour to inclose copies of a despatch, and of its inclosures, from the Administrator of the Government of Canada, transmitting copy of a Report of a Committee of the Privy Council of Canada, suggesting that I should call upon the United States' Government to grant indemnity to the shipper of a quantity of preserved lobster in tins, which arrived at Philadelphia at the end of last year, in the "Lizzie Dakers," and was refused admittance, as the master alleges, except on the payment of duty.

In compliance, however, with the general instructions from your Lordship's Department, I have the honour to submit the case to you, and to ask whether your Lordship deems it expedient that the claim of the shipper of the preserved lobster should be presented to the Government of the United States.

I may be allowed to observe that the Master of the "Lizzie Dakers" does not seem to have obtained from the Collector of Customs a refusal in writing to admit the lobster except on the payment of duty, but to have taken it back to Canada on the verbal refusal of the Collector to admit it free of duty. It seems to me that he would, under the circumstances, have done better to have paid the duties under protest, and afterwards to have claimed their restitution. At any rate, he might have addressed himself either to Her Majesty's Consul at Philadelphia, or to Her Majesty's Minister at Washington, in either of which cases it is more than probable

* No. 11.

that the exemption of the lobster from the payment of duty would have been at once allowed. But he took neither of these steps, and does not seem even to have entered a protest at the British Consulate against the act of the Collector of Customs. The master's determination to take the lobster back again without even taking such ordinary steps, or discovering the reasons which led the Collector to refuse its admittance free of duty, seems to have been somewhat precipitate.

I have, &c.
(Signed) EDWD. THORNTON.

Inclosure 1 in No. 13.

Lieutenant-General Sir W. O'G. Haly to Sir E. Thornton.

Sir, *Halifax, Nova Scotia, August* 30, 1875.

WITH reference to your despatch of the 21st June, and to previous correspondence on the subject of the refusal of the Collector of Customs at Philadelphia to admit cases of preserved lobster shipped from Canada, unless upon the payment of duty, I have the honour, at the instance of my Government, of inclosing a copy of an approved Minute of Council, covering copy of a letter, and an affidavit in support of the claim of the shipper for indemnity for loss sustained by him in consequence of the action of the Collector of Customs.

I have, &c.
(Signed) W. O'G. HALY.

Inclosure 2 in No. 13.

Report of a Committee of the Honourable Privy Council, approved by his Excellency the Administrator of the Government in Council, on the 27th August, 1875.

THE Committee of the Privy Council have had under consideration the Memorandum dated 10th July, 1875, from the Honourable the Minister of Customs, relative to the cases of preserved lobster which the Master of the "Lizzie Dakers" stated were refused admission by the Custom-house at Philadelphia, unless upon the payment of duty.

The Secretary of the Treasury of the United States forwards a copy of a letter addressed to the Collector of Customs, Philadelphia, in which he states that, "after investigation, he cannot find that free entry was refused for the fifty cases of lobsters, except from the supposed fact that the lobsters being preserved in oil," they came within the exceptions in the Treaty and the Acts relating thereto.

On this point the Minister of Customs submits that the facts stated in the accompanying affidavits of Thomas G. Bourne, Esq., the shipper of the lobsters in question, and J. E. Puddington, Esq., a respectable merchant of St. John, New Brunswick, may, in his opinion, be received as satisfactory proof that there was no oil used in their preservation, and further that such a method of preserving lobsters is not known or practised in Canada, and as this is the only ground alleged by the Collector of Customs of Philadelphia for refusing to accept a free entry of the fish, he trusts that the Secretary of the Treasury of the United States will favourably consider the claim of the shipper for indemnity for the loss sustained by him as a consequence of the Collector's custom.

The Committee concurs in the views expressed by the Minister of Customs, and advise that a copy of this Minute and of the affidavits referred to be transmitted to Sir Edward Thornton.

Certified,
(Signed) W. A. HIMSWORTH,
Clerk, Privy Council.

14

Inclosure 3 in No. 13.

Mr. Bourne to Mr. Johnson.

Sir, *St. John, New Brunswick, July* 29, 1875.

I HAVE to acknowledge the receipt of your letter of the 14th instant, and regret that, owing to severe illness, I have not been able to make an earlier reply. I herewith inclose papers such as you request, and think they should be sufficient to satisfy any person desirous of arriving at the truth of the matter. In order, however, to set the matter at rest, I have forwarded you, by to-day's mail, a can of preserved lobsters, taken at random from the very lot that was shipped to Philadelphia by the "Lizzie Dakers."

I am, &c.
(Signed) THOS. G. BOURNE.

Inclosure 4 in No. 13.

Affidavit.

I, THOMAS GEORGE BOURNE, of the City of St. John, New Brunswick, in the Dominion of Canada, do hereby solemnly swear and declare that the fifty cases of preserved lobsters shipped by me on board the schooner "Lizzie Dakers," on the 19th of October last past, and which were refused free entry at the Port of Philadelphia, in the United States, and afterwards returned to St. John, New Brunswick, under bond, were fresh lobsters, put up in the usual way in which fresh meats, fish, and vegetables are put up in cans; that no oil of any kind whatever was used, or could have been used in their preparation, and that, if necessary, I am prepared to furnish sample cans of exactly the same brand of fish, which I would be willing to submit to the judgment of competent persons in proof of the truth of my statement.

(Signed) THOMAS G. BOURNE.

Sworn to before me, this 27th day of July, 1875.
(Signed) P. Gleeson, *J.P.*

I, J. E. Puddington, of the city of St. John, New Brunswick, merchant, being fully cognizant of the facts of the statement above sworn to, do hereby testify that such statement is, in my opinion, strictly true and worthy of full credit and belief.

(Signed) J. E. PUDDINGTON.

Witness:
(Signed) W. H. Merrett.
St. John, New Brunswick, July 27, 1875.

No. 14.

Mr. Lister to Mr. Herbert.

Sir, *Foreign Office, September* 22, 1875.

WITH reference to Lord Tenterden's letter of the 6th of July, I am directed by the Earl of Derby to transmit to you a copy of a despatch from Her Majesty's Minister at Washington,* forwarding a copy of a further communication addressed to him by the Canadian Government, on the subject of the demand made by the Custom-house at Philadelphia for the payment of duty on some preserved lobster, shipped on board the "Lizzie Dakers," and I am to request you in laying this despatch before the Earl of Carnarvon to move his Lordship to inform Lord Derby whether he would wish that Sir E. Thornton should be instructed to apply to the United States' Government for compensation for the owner of the lobsters.

I am, &c.
(Signed) T. V. LISTER.

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* No. 1.

No. 15.

Mr. Meade to Lord Tenterden.—(Received October 4.)

Sir, *Downing Street, October 2, 1875.*

I AM directed by the Earl of Carnarvon to acknowledge the receipt of your letter of the 22nd instant, inclosing a copy of a despatch from Her Majesty's Minister at Washington, forwarding a copy of a further communication addressed to him by the Canadian Government, on the subject of the demand made at the Custom-house at Philadelphia, for the payment of duty on some lobsters shipped on board the "Lizzie Dakers," and requesting to be informed whether Lord Carnarvon would wish that Sir E. Thornton should be instructed to apply to the United States' Government for compensation of the owners of the lobsters.

Lord Carnarvon desires me in reply to request that you will inform the Earl of Derby that his Lordship thinks that Sir E. Thornton may be instructed to ascertain whether the United States' Government would be prepared to make any compensation to the shipper of these lobsters.

I am, &c.
(Signed) R. H. MEADE.

No. 16.

Mr. Malcolm to Lord Tenterden.—(Received October 7.)

Sir, *Downing Street, October 6, 1875.*

WITH reference to your letter of the 22nd September, and to the reply from this Department of the 2nd instant, relating to the refusal of the United States Customs' authorities at Philadelphia to admit free of duty certain lobsters shipped on board the "Lizzie Dakers" by Mr. Bourne, of St. John, New Brunswick, I am directed by the Earl of Carnarvon to transmit to you, to be laid before the Earl of Derby, a copy of a despatch addressed to the officer administering the Government of Canada by Sir E. Thornton on this subject.

Lord Carnarvon desires me to state that he would be glad to receive a copy of any instruction given to Sir E. Thornton in consequence of the letter from this Department above referred to, in order that the Governor-General of Canada may be apprized of the course proposed to be taken in the matter.

I am, &c.
(Signed) W. R. MALCOLM.

Inclosure in No. 16.

Sir E. Thornton to Lieutenant-General Sir W. O'G. Haly, K.C.B.

Sir, *Washington, September 6, 1875.*

I HAVE the honour to acknowledge the receipt of your Excellency's despatch of the 30th ultimo, transmitting a copy of a Report of a Committee of the Privy Council of Canada relative to the preserved lobster wh h was carried to Philadelphia in the "Lizzie Dakers," and was there refused admittance except on the payment of duty.

I do not, however, feel justified in presenting to the United States' Government a claim for indemnity on this account without being instructed to do so by the Earl of Derby, to whom I have, consequently, referred the matter.

I have, &c.
(Signed) EDWD. THORNTON.

No. 17.

The Earl of Derby to Sir E. Thornton.

Sir, *Foreign Office, October 11, 1875.*

I HAVE had under my consideration, in communication with Her Majesty's Secretary of State for the Colonies, your despatch of the 6th ultimo, forwarding

a communication from the Canadian Government on the subject of the demand made at the Custom-house at Philadelphia for the payment of duty on some tinned lobsters shipped on board the "Lizzie Dakers," and I have to instruct you to ascertain whether the United States' Government would be prepared to make any compensation to the shipper of the lobsters for the loss sustained by him in consequence of that demand.

I am, &c.
(Signed) DERBY.

No. 18.

Mr. Lister to Mr. Herbert.

Sir, *Foreign Office, October* 12, 1875.

WITH reference to your letters of the 2nd and 6th instant, I am directed by the Earl of Derby to transmit to you, to be laid before the Earl of Carnarvon, a copy of a despatch addressed by Lord Derby to Her Majesty's Minister at Washington,* instructing him to ascertain whether the United States' Government would be prepared to make any compensation to the shipper of some lobsters on board the "Lizzie Dakers," on which duty was claimed at Philadelphia.

I am, &c.
(Signed) T. V. LISTER.

No. 19.

Sir E. Thornton to the Earl of Derby.—(Received December 5.)

My Lord, *Washington, November* 22, 1875.

IN compliance with the instructions contained in your Lordship's despatch of the 11th ultimo, I addressed a note to Mr. Fish, copy of which I have the honour to inclose, inquiring whether the Government of the United States would not consider it in accordance with justice that the owners of the lobster preserved in tins, which was shipped in the "Lizzie Dakers," and was refused admittance, without payment of duty, by the Custom-house at Philadelphia, should be compensated for their loss.

I now inclose copy of the answer which I have received from Mr. Fish, and which incloses copy of a communication from the Secretary of the Treasury, to the effect that it is out of the power of his Department to grant the relief solicited by the owners of the preserved lobster, and that this can only be afforded by a special Act of Congress.

I have forwarded a copy of Mr. Fish's note, and of its inclosure, to the Governor-General of Canada.

I have, &c.
(Signed) EDWD. THORNTON.

Inclosure 1 in No. 19.

Sir E. Thornton to Mr. Fish.

Sir, *Washington, October* 30, 1875.

WITH reference to Mr. Cadwalader's note of the 19th of June last, on the subject of some canned lobster which was brought to Philadelphia by the British vessel "Lizzie Dakers" towards the end of 1874, and was refused admittance free of duty by the Collector of Customs of that port, I have the honour to inclose copy of a despatch which I have received from the Administrator of the Government of Canada, transmitting copies of documents showing that the lobster in question was not preserved in oil.

I transmitted a copy of this despatch to the Earl of Derby, and his Lordship has now instructed me to inquire of you whether the Government of the United States would not consider it fair, and in accordance with justice, that some com-

* No. 17.

pensation should be made to the shipper of the lobster for the loss he has sustained in consequence of the refusal to admit it free of duty, which rendered it necessary to take the lobster back to the place of shipment.

I have, &c.

(Signed) EDWD. THORNTON.

Inclosure 2 in No. 19.

Mr. Fish to Sir E. Thornton.

Sir, *Department of State, Washington, November* 17, 1875.

REFERRING to your note of the 30th ultimo, further in regard to the importation of certain canned lobsters in the British vessel "Lizzie Dakers" at the port of Philadelphia in the year 1874, I have the honour to inclose, for your information, a copy of a letter of the 12th instant upon the subject from the Secretary of the Treasury, to whom a copy of your note was submitted.

(Signed) HAMILTON FISH.

Inclosure 3 in No. 19.

Mr. Bristow to Mr. Fish.

Sir, *Treasury Department, November* 12, 1875.

I HAVE the honour to acknowledge the receipt of the communication of the Acting Secretary of State, under date of the 2nd instant, transmitting a copy of a note and its accompaniments lately received by you from the British Minister further in regard to the importation of certain canned lobsters in the British vessel "Lizzie Dakers" at the port of Philadelphia in the year 1874.

It appears from the papers before the Department that the Collector of Customs at that port declined to admit said importation to free entry on the ground that the lobsters were presumed to have been preserved in oil, a fact which, if true, would exclude them from the benefit of the provision in the Treaty of Washington, allowing, with certain exceptions, the free entry of fish, the produce of Canadian fisheries.

It further appears that, in consequence of such action of the Collector, the owners of the lobsters returned the same to the Dominion of Canada, under an entry for warehouse and immediate exportation, and, consequently, without any examination by which the fact, whether the same were or were not preserved in oil could be determined.

Evidence is now presented going to show that the lobsters in question were, as a matter of fact, not preserved in oil, and were, therefore, entitled to free entry; and claim is made on behalf of the Canadian owners for damages alleged to have been sustained by reason of the non-admission of said merchandize to free entry, and the supposed compulsory re-exportation thereof under the circumstances stated.

In reply I have to remark that it may be deemed sufficient to state, so far as the action of this Department is concerned, that, under the circumstances of the case, the Secretary of the Treasury has no jurisdiction of said claim: first, because it is for constructive or equitable damages; and, secondly, because, if he could entertain the claim and adjust the amount to be allowed (if any) there is no appropriation out of which he could direct the same to be paid.

It may be proper to add, however, for the information of the claimants, that, as the facts appear before the Department, there was no legal stress or compulsion which prevented them from exercising the right to enter the merchandize, either in bond or for consumption, and therefore to have such examination made as would have determined the precise character of the importation, or would have enabled them to bring the question before the Department on protest and appeal.

It would seem, therefore, that the claimants voluntarily adopted an alternative of their own selection, a course which they may have taken in ignorance of their legal rights, but not of itself affording any grounds for the relief they now seek, and which, if they are entitled thereto, can be afforded only by a special Act of Congress.

I am, &c.

(Signed) B. H. BRISTOW, *Secretary.*

No. 20.

Lord Tenterden to Mr. Herbert.

Sir, *Foreign Office, December* 10, 1875.

WITH reference to Mr. Lister's letter of the 12th of October, I am directed by the Earl of Derby to transmit to you, herewith, to be laid before the Earl of Carnarvon, a copy of a despatch from Her Majesty's Minister at Washington,* reporting that the United States' Government are unable, without a special Act of Congress, to grant compensation to the shipper of the lobsters on board the "Lizzie Dakers."

I am, &c.
(Signed) TENTERDEN.

No. 21.

Mr. Meade to Lord Tenterden.—(Received December 20.)

(Extract.) *Downing Street, December* 18, 1875.

I AM directed by the Earl of Carnarvon to acknowledge the receipt of your letter of the 10th instant, inclosing a copy of a despatch from Sir E. Thornton, giving the result of the representation which he made to the United States' Government respecting the grant of compensation to the shipper of certain tinned lobsters sent from Canada on board the "Lizzie Dakers."

No. 22.

Sir E. Thornton to the Earl of Derby.—(Received February 5.)

(Extract.) *Washington, January* 24, 1876.

I HAVE the honour to state that I have more than once urged upon Mr. Fish the justice of procuring the repeal of the Tariff of February 8, 1873, as far as it relates to the imposition of duty upon the tins containing fish imported from Canada, on the ground that it was a violation of the XXIst Article of the Treaty of May 8, 1871. Mr. Fish, admitting that the duty in question was opposed to the spirit, if not to the letter, of that Treaty, had promised that he would endeavour to obtain a repeal of the objectionable enactment on the meeting of Congress.

Within the last few days I have reminded him of the matter. He excused himself for not having yet taken any step on the ground that, owing to the multitude of requests for papers by the new House of Representatives, he had been more than usually occupied, but he has assured me that he will take an early opportunity of calling the attention of the Chairman of the Committee of Ways and Means to the subject.

No. 23.

Lord Tenterden to Mr. Meade.

Sir, *Foreign Office, February* 8, 1876.

WITH reference to your letter of the 18th of December, I am directed by the Earl of Derby to transmit to you, to be laid before the Earl of Carnarvon, an extract of a despatch from Her Majesty's Minister at Washington,† in regard to the imposition of duty upon the tins containing fish imported into the United States from Canada.

I am, &c.
(Signed) TENTERDEN.

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* No. 19. † No. 22.

NORTH AMERICA. No. 6 (1876).

CORRESPONDENCE respecting the Navigation of the United States' Canals by Canadian Vessels.

Presented to both Houses of Parliament by Command of Her Majesty. 1876.

LONDON:
PRINTED BY HARRISON AND SONS.

NORTH AMERICA. No. 6 (1876).

CORRESPONDENCE

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NAVIGATION

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TABLE OF CONTENTS.

No.	Name.	Date.	Subject.	Page
1	Sir E. Thornton ..	Jan. 15, 1872	Conversation with Mr. Fish respecting the navigation of the United States' canals by Canadian vessels	1
2	To Colonial Office ..	31,	Sends copy of No. 1	1
3	Sir E. Thornton ..	Apr. 28, 1874	Copy of Governor Hoffman's letter (referred to in No. 1), stating that the navigation of New York canals is open to Canadian vessels	2
4	To Colonial Office ..	May 13,	Sends copy of No. 3	3
5	Sir E. Thornton ..	Nov. 23,	Copy of note to Mr. Fish, pointing out that Canadian vessels are excluded from United States' Canals. .	3
6	To Colonial Office ..	Dec. 10,	Sends copy of No. 5, and proposes to approve Sir E. Thornton	6
7	Sir E. Thornton ..	Nov. 30,	Mr. Fish has requested the Governor of the State of New York to report	6
8	Colonial Office	Dec. 16,	Answer to No. 6. Concurs in approval of Sir E. Thornton	7
9	To Colonial Office ..	18,	Sends copy of No. 7	7
10	Sir E. Thornton ..	14,	Governor Dix asserts that Canadian vessels are not prohibited from navigating New York canals .	7
11	To Colonial Office ..	Jan. 5, 1875	Sends copy of No. 10	10
12	Colonial Office	28,	Copy of despatch to Lord Dufferin, requesting further information	10
13	„ „	Mar. 11	Grounds on which the Canadian Government founded their representation	10
14	To Sir E. Thornton ..	13,	Sends copy of No. 13	12
15	Sir E. Thornton ..	Sept. 6,	United States' Government appear virtually to refuse the right of navigation of their canals. Copy of note to Mr. Hunter.	12
16	To Colonial Office ..	21,	Sends copy of No. 15, and proposes to approve Sir E. Thornton	16
17	Sir E. Thornton ..	20,	Correspondence with Mr. Hunter and Mr. Fish ..	16
18	To Colonial Office ..	Oct. 6,	Sends copy of No. 17, and proposes to approve Sir E. Thornton	19
19	Colonial Office	6,	Answer to No. 16. Concurs in approval of Sir E. Thornton	19
20	Sir E. Thornton ..	Sept. 27,	Conversation with Mr. Fish on September 23 ..	19
21	To Colonial Office ..	Oct. 15,	Sends copy of No. 20	20
22	Colonial Office	14,	Answer to No. 18. Concurs in approval of Sir E. Thornton	20
23	To Sir E. Thornton ..	16,	Approves action reported in No. 15	20
24	„ „ ..	21,	Approves action reported in No. 17	20
25	Sir E. Thornton ..	Nov. 29,	Decision of the United States' Treasury	21
26	To Colonial Office ..	Dec. 16,	Sends copy of No. 25	23
27	Sir E. Thornton ..	Mar. 13, 1876	Proposals to open the ports of Albany and Troy ..	23
28	Colonial Office	Apr. 26,	Copy of despatch from Lord Dufferin. United States' Government should be pressed to carry out the Treaty in a liberal spirit	23
29	To Colonial Office ..	May 6,	Copy of No. 28 will be sent to Sir E. Thornton ..	25
30	To Sir E. Thornton ..	6,	Sends copy of No. 28.	25
31	Sir E. Thornton ..	8,	Correspondence and conversation with Mr. Fish respecting the Champlain and Erie Canals ..	25
32	To Colonial Office ..	22,	Sends copy of No. 31, and proposes to approve Sir E. Thornton	27
33	Colonial Office	June 1,	Concurs in approval of Sir E. Thornton	28
34	To Sir E. Thornton ..	6,	Approves course reported in No. 31	28
35	Sir E. Thornton ..	12,	Satisfactory decision of the United States' Government	28
36	Colonial Office	July 11,	Despatch from Lord Dufferin announcing decision reported in No. 35	29

Correspondence respecting the Navigation of the United States' Canals by Canadian Vessels.

No. 1.

Sir E. Thornton to Earl Granville.—(*Received January* 27.)

My Lord, *Washington, January* 15, 1872.

AT a recent interview with Mr. Fish he reminded me that the President, in his Message to Congress at the opening of the Session on the 4th ultimo, stated that a communication had been addressed to the Governors of the different States interested in the matter, urging upon the Governments of those States respectively the necessary action on their part to carry into effect the object of the Article of the Treaty of 8th May last which contemplates the use of the canals, on either side, connected with the navigation of the lakes and rivers forming the boundary, on terms of equality by the inhabitants of both countries.

Mr. Fish then proceeded to read to me the answer which he had received from the Governor of the State of New York, in the canals belonging to which State the inhabitants of Canada are perhaps more interested than in those of any other. It was to the effect that his Excellency had consulted the legal advisers of the State, and that after examination it did not appear to them that there was any Law of the State which prohibited British subjects from navigating its canals, or vessels wholly or in part owned by them from passing through the canals, without the payment of other or higher dues or imposts than those paid by citizens of the United States or their vessels. Governor Hoffman promised, however, to take an early opportunity of submitting the matter to the State Legislature, with a view to obtain an expression of its opinion on the matter.

I have, &c.
(Signed) EDWD. THORNTON.

No. 2.

Viscount Enfield to Mr. Herbert.

Sir, *Foreign Office, January* 31, 1872.

I AM directed by Earl Granville to transmit to you, to be laid before the Earl of Kimberley, a copy of a despatch from Sir E. Thornton,* reporting a conversation he had had with Mr. Fish in regard to the carrying into effect the object of the Article of the Treaty of Washington as to the use by the inhabitants of Canada and the United States of the canals, on either side, on terms of equality.

I am, &c.
(Signed) ENFIELD.

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* No. 1.

No. 3.

Sir E. Thornton to the Earl of Derby.—(Received May 10.)

My Lord, *Washington, April* 28, 1874.

DURING the interview which Mr. Brown and I had yesterday with Mr. Fish, the latter alluded to a letter which he had received in 1871 from the Governor of the State of New York relative to the provisions of the XXVIIth Article of the Treaty of Washington, relating to the navigation of the State canals.

In my despatch to Earl Granville of the 15th January, 1872, I informed his Lordship that Mr. Fish had read to me the above-mentioned letter.

Mr. Fish yesterday expressed his belief that he had sent me a copy of that letter, but, on my replying that he had not done so and expressing a wish to have it, he promised to send it me. In answer to my question whether the Governor had obtained any expression of opinion upon the subject from the State Legislature of New York, he said he did not know, but would make inquiries.

I now have the honour to inclose copies of Mr. Fish's note to me and of the letter of the Governor of New York, dated December 4, 1871, upon the subject of the canals of that State.

I shall also forward copies of these documents to the Governor-General of Canada.

I have, &c.
(Signed) EDWD. THORNTON.

Inclosure 1 in No. 3.

Mr. Fish to Sir E. Thornton.

Sir, *Department of State, Washington, April* 27, 1874.

I HAVE the honour to inclose herewith, in compliance with your verbal request, a copy of a letter addressed to the President by the Governor of the State of New York, under date of December 4, 1871, upon the subject of carrying into effect the provisions of the XXVIIth Article of the Treaty of Washington.

I have, &c.
(Signed) HAMILTON FISH.

Inclosure 2 in No. 3.

Mr. Hoffman to President Grant.

State of New York Executive Chamber, Albany,
Sir, *December* 4, 1871.

I RECEIVED this morning your letter of the 29th November, transmitting to me a copy of a Treaty, concluded on the 8th of May last, between the United States and Great Britain, calling my attention to the XXVIIth Article thereof, whereby the United States engages to urge upon the State Governments to secure to the subjects of Her Britannic Majesty the use of the several State canals connected with the navigation of the lakes or rivers traversed by, or contiguous to the boundary line between the possessions of the High Contracting Parties, on terms of equality with the inhabi tants of the United States, and requesting me to bring the provisions of this Article before the Legislature of this State, now about to convene, and to recommend to it such legislation as will secure to the subjects of Her Britannic Majesty in North America the use of the canals of this State on equal terms with our own citizens.

I have caused inquiries to be made of those charged with the administration of the canals of this State, and learn from them that they know of no restrictions now to be found in the laws of this State upon the equal use of the canals by British subjects and American citizens; that there are no restrictions upon foreigners being the owners, in part or in whole, of boats entitled to navigate our canals, nor would a boat owned wholly in Canada be forbidden the use of our canals, or be subjected to other tolls or other regulations than those imposed upon boats owned in our own State.

I shall, nevertheless, with great pleasure call the attention of the Legislature to

the subject, and recommend them to pass such laws as they may find to be necessary to carry into effect at once the agreement made in the XXVIIth Article of the Treaty.

I have, &c.
(Signed) JOHN W. HOFFMAN.

No. 4.

Lord Tenterden to Mr. Herbert.

Sir, *Foreign Office, May* 13, 1874.

I AM directed by the Earl of Derby to transmit to you, to be laid before the Earl of Carnarvon, copy of a despatch on the subject of the navigation of the United States canals by British subjects.*

I am, &c.
(Signed) TENTERDEN.

No. 5.

Sir E. Thornton to the Earl of Derby.—(Received December 6.)

My Lord, *Washington, November* 23, 1874.

I HAVE the honour to inclose copies of a despatch and of its inclosure which I have received from the Governor-General of Canada relative to the engagement taken by the United States' Government in the XXVIIth Article of the Treaty of May 8, 1871, to urge the State Governments to throw open the canals therein referred to to British subjects on terms of equality with American citizens.

The Report of the Committee of the Privy Council, transmitted by his Excellency, states that Canadian vessels are still entirely excluded from the use of any and all of the canals within United States' territory, except the Sault Sainte Marie Canal, and recommends that Her Majesty's Minister at Washington be communicated with, with the view of ascertaining whether the Government of the United States will endeavour to procure for those vessels the use of their canals, according to the above-mentioned Article of the Treaty of Washington.

I have hardly thought that I should be justified in charging the United States' Government with having failed to carry out the stipulation contained in that Article, because I know that a communication on the subject was addressed by the President soon after the signature of the Treaty to the Governor of the State of New York, within which the principal canals referred to are situated. I had the honour to inclose a copy of the Governor's answer in my despatch to your Lordship of the 28th of April last.

But I have this day addressed a note to Mr. Fish, copy of which is inclosed, pointing out that United States' vessels are allowed to navigate the Canadian canals, whilst Canadian vessels are entirely excluded from those in the territory of the United States, and suggesting that a further representation upon the subject should be made to the Governor of the State of New York.

I also inclose copy of my answer to Lord Dufferin's despatch.

I have, &c.
(Signed) EDWD. THORNTON.

Inclosure 1 in No. 5.

The Earl of Dufferin to Sir E. Thornton.

Sir, *Government House, Ottawa, November* 18, 1874.

I HAVE the honour of inclosing, for your consideration, a copy of an approved Order of the Privy Council of the Dominion, in which my Government submit that the engagement entered into by Her Majesty's Government and that of the United States, for the mutual use of the canal system of both countries under the Treaty of Washington, have not been carried into effect by the Government of the United States,

* No. 3.

while the Canadian Government has been faithfully acting upon the spirit of the Treaty for a period of over three years.

I am to request that you will be good enough to take such action in the matter as you may deem expedient.

I have, &c.
(Signed) DUFFERIN.

Inclosure 2 in No. 5.

Report of a Committee of the Honourable the Privy Council, approved by His Excellency the Governor-General, on the 12th November, 1874.

THE Committee of the Privy Council have had under consideration a Memorandum, dated 11th November, 1874, from the Honourable the Minister of Customs, stating that he has recently learned that the engagements entered into between Her Majesty's Government and that of the United States in reference to the mutual use of the canals of both countries by the vessels of the United States and Canada respectively, as contained in the XXVIIth section of the Treaty of Washington, have not as yet, on the part of the United States, been carried into practical effect; but that while all the Canadian canals have been freely opened to their vessels on payment of the same tolls and charges as are exacted from British or Canadian vessels, the latter are still entirely excluded from the use of any and all of the canals within United States' territory, except the Sault Sainte Marie Canal.

That thus while barges and other vessels, with or without cargo, clearing from ports upon the Hudson River are allowed to pass through the Champlain Canal to the St. Lawrence, and thence from Montreal through the Lachine Canal, and through the canals on the Ottawa to the city of Ottawa, or any other destination, British or Canadian vessels loading at Ottawa, or at any other Canadian port, or even in ballast, are prohibited from passing Whitehall through the Champlain Canal to the Hudson River, in the State of New York; and that the same prohibitory policy obtains generally in reference to the use of the Erie, and other canals connecting navigable waters within the territory of the United States.

That considering that over three years have passed, during which period the Canadian Government has been faithfully acting upon the spirit of the Treaty, permitting the use of their numerous canals in as full and unrestricted a manner as that accorded to their own vessels; and this liberal policy having met with no reciprocity on the part of the Government of the United States, he recommends that the British Minister at Washington be communicated with, with the view of ascertaining whether the Government of the United States will endeavour to procure for British and Canadian vessels the use of their canals, according to the said XXVIIth section of the said Treaty of Washington.

The Committee of Council concur in the foregoing recommendation of the Minister of Customs, and submit the same for your Excellency's approval.

Certified,
(Signed) W. A. HIMSWORTH,
Clerk, Privy Council, Canada.

Inclosure 3 in No. 5.

Sir E. Thornton to Mr. Fish.

Sir, *Washington, November 23, 1874.*

SINCE the signature of the Treaty of May 8th, 1871, between the United States and Great Britain, you have on several occasions been good enough to inform me that in conformity with the engagement contained in the XXVIIth Article of that Treaty the President had made a representation to the Governor of the State of New York, urging that the use of the canals in that State should be allowed to the subjects of Her Britannic Majesty on terms of equality with the inhabitants of the United States.

You also communicated to me the nature of his Excellency's reply to the effect that he believed that there were no laws of the State of New York which prohibited the equal use of the canals by British subjects and American citizens, and subsequently in compliance with my wish have had the kindness, on the 27th of April last,

to forward me a copy of the letter which the President had received upon the subject referred to from his Excellency Governor Hoffman.

I had much pleasure in transmitting a copy of his Excellency's letter to Her Majesty's Government, and to the Governor-General of Canada.

But I have just received a despatch from the Earl of Dufferin transmitting copy of a report of a Committee of the Privy Council of the Dominion of the 12th instant, in which it is stated that whilst all the Canadian canals have been freely opened to vessels of the United States on payment of the same tolls and charges as are exacted from British or Canadian vessels, the latter are entirely excluded from the use of any and all of the canals within United States' territory, except the Sault Sainte Marie Canal, and that thus while United States' barges and other vessels, with or without cargo, clearing from ports upon the Hudson River, are allowed to pass through the Chambly Canal to the St. Lawrence, and thence from Montreal through the Lachine Canal, and through the canals on the Ottawa to the city of Ottawa, or any other destination, British or Canadian vessels loading at Ottawa or any other Canadian port, or even in ballast, are prohibited from passing Whitehall through the Champlain Canal to the Hudson River, in the State of New York. The same prohibitory policy, as the report further states, obtains generally in reference to the use of the Erie and other canals connecting navigable waters within the territory of the United States.

As this policy seems to be entirely at variance with the opinion expressed by the Governor of the State of New York in his letter to the President, of December 4th, 1871, and considering that over three years have passed during which the Canadian Government has been faithfully acting upon the spirit of the Treaty, permitting the use of their numerous canals in as full and unrestricted a manner as that accorded to their own vessels, whilst the latter have enjoyed no reciprocity with regard to the canals in the United States, I have the honour to request that inquiries may be made as to the prohibition complained of, which seems so contrary to the spirit of the above-mentioned letter of the Government of the State of New York, and to suggest that further representations may be made with a view to the enjoyment by British and Canadian vessels of the use of the canals in accordance with the XXVIIth Article of the Treaty of Washington.

I have, &c.
(Signed) EDWD. THORNTON.

Inclosure 4 in No. 5.

Sir E. Thornton to the Earl of Dufferin.

My Lord, *Washington, November* 23, 1874.

I HAVE the honour to acknowledge the receipt of your Excellency's despatch of the 18th instant, and of its inclosure, relative to the XXVIIth Article of the Treaty of Washington, by which the United States' Government engaged to urge upon the State Governments to secure to Her Majesty's subjects the use of the canals referred to therein.

There is no doubt that the United States' Government has urged the Government of the State of New York, within which the principal canals are situated, to throw them open to British subjects, and in my despatch to your Excellency, of the 28th of April last, I transmitted a copy of a letter, dated December 4, 1871, from the Governor of the State of New York to the President, in which he stated that those who were charged with the administration of the canals in that State knew of no restrictions upon the equal use of the canals by British subjects and American citizens. Mr. Fish has often referred to this letter, and has expressed his opinion that his Government lost no time in carrying out the engagement contained in the XXVIIth Article of the Treaty.

I do not, therefore, feel justified in saying in an official note that the stipulation of the XXVIIth Article has not been complied with, because I believe that the United States' Government really urged the Government of the State of New York to throw open its canals to British subjects, and wished that it should be done, though its representation seems to have produced no effect.

I am, however, addressing a note to Mr. Fish, stating that the canals of the State of New York have not been opened to British vessels, and have requested that a further representation may be made upon the subject to the Governor of that State.

I should be glad to be informed whether the United States' authorities have prevented Canadian vessels from passing through the St. Clair Flats Canal.

I have, &c.
(Signed) EDWD. THORNTON.

No. 6.

Lord Tenterden to Mr. Herbert.

Sir, *Foreign Office, December* 10, 1874.

I AM directed by the Earl of Derby to transmit to you a copy of a despatch from Sir E. Thornton,* inclosing correspondence with the Governor-General of Canada and Mr. Fish on the subject of the exclusion of Canadian subjects from the canals in the State of New York, and I am to request you to state to the Earl of Carnarvon that Lord Derby proposes, with his concurrence, to approve the note which Sir E. Thornton addressed to Mr. Fish on the 23rd ultimo, calling his attention to the matter.

The inclosures marked Nos. 1, 2, and 4 in Sir E. Thornton's despatch are sent in original, to be returned, in case they should not yet have been received at the Colonial Office from Lord Dufferin.

I am, &c.
(Signed) TENTERDEN.

No. 7.

Sir E. Thornton to the Earl of Derby.—(*Received December* 14.)

My Lord, *Washington, November* 30, 1874.

WITH reference to my despatch of the 23rd instant, I have the honour to inclose copy of a note which I have received from Mr. Fish in answer to mine, copy of which was inclosed in that despatch, relative to the navigation of certain of the canals of the United States by Canadian vessels. Your Lordship will perceive that Mr. Fish states that a further representation upon the subject has been made to the Governor of the State of New York.

I have forwarded a copy of this note to the Governor-General of Canada.

I have, &c.
(Signed) EDWD. THORNTON.

Inclosure in No. 7.

Mr. Fish to Sir E. Thornton.

Sir, *Department of State, Washington, November* 24, 1874.

I HAVE the honour to acknowledge the receipt of your note of the 23rd instant, in reference to the engagement of the United States to urge upon the several State Governments to secure to subjects of Her Britannic Majesty the use of the several State canals connected with the navigation of the lakes; and in which you state that you are in receipt of a despatch from the Earl of Dufferin, transmitting a copy of a Report of a Committee of the Privy Council of the Dominion of Canada, in which it is stated that whilst all the Canadian canals have been opened to vessels of the United States, that British subjects are entirely excluded from the use of any and all canals in the United States, except the Sault Sainte Marie Canal.

I am somewhat surprised at this general statement in the Report of the Committee; and it would, perhaps, be more satisfactory had some special instance of exclusion been reported, that the facts might have been represented. I have, however, transmitted a copy of your despatch to the Governor of the State of New York, and have requested information upon the question.

Although the Report of the Committee of the Privy Council states that all the canals of the United States are so closed, except the Sault Sainte Marie Canal, I beg to inform you that the Resolution of the Legislature of the State of Michigan, of March 23, 1872, opening the Sault Sainte Marie Canal, applied also to any canal connected with

* No. 5.

the great lakes, or contiguous to the boundary line between the United States and the Dominion of Canada.

I have, &c.
(Signed) HAMILTON FISH.

No. 8.

Mr. Malcolm to Lord Tenterden.—(*Received December* 18.)

Sir, *Downing Street, December* 16, 1874.

I AM directed by the Earl of Carnarvon to acknowledge the receipt of your letter of the 10th instant, inclosing a copy of a despatch from the British Minister at Washington, with copies of correspondence with the Governor-General of Canada, and the Secretary of State of the United States, on the subject of the exclusion of British subjects from the State canals, referred to in the XXVIIth Article of the Treaty of Washington, 1871.

Lord Carnarvon desires me to inform you that he concurs in the approval of Sir E. Thornton's note to Mr. Fish, which the Earl of Derby proposes to express to him.

The Inclosures Nos. 1, 2, and 4, to Sir E. Thornton's despatch are herewith returned, Nos. 1 and 2 having been received from the Governor-General of Canada in a despatch of which I am to inclose a copy, and a copy of No. 4 having been retained for record in this Department.

I am, &c.
(Signed) W. R. MALCOLM.

Inclosure in No. 8.

The Earl of Dufferin to the Earl of Carnarvon.

My Lord, *Government House, Ottawa, November* 19, 1874.

I HAVE the honour to transmit herewith, for your Lordship's information, a copy of a despatch which I have addressed to Her Majesty's Minister at Washington, inclosing a copy of an approved Minute of the Privy Council of the Dominion, on the subject of the mutual use of the canals of the United States and Canada, by the shipping of both countries under the Treaty of Washington.

I have, &c.
(Signed) DUFFERIN.

No. 9.

Lord Tenterden to Mr. Herbert.

Sir, *Foreign Office, December* 18, 1874.

WITH reference to my letter of the 10th instant, I am directed by the Earl of Derby to transmit to you, to be laid before the Earl of Carnarvon, a copy of a further despatch from Sir E. Thornton, respecting the non-admission of Canadian vessels to the free use of certain canals in the United States.*

I am, &c.
(Signed) TENTERDEN.

No. 10.

Sir E. Thornton to the Earl of Derby.—(*Received December* 27.)

My Lord, *Washington, December* 14, 1874.

WITH reference to my despatch of the 30th ultimo, I have the honour to transmit herewith copies of a note which I have received from Mr. Fish, and of its inclosures, relating to the navigation of the canals in the State of New York by British and Canadian vessels.

Your Lordship will perceive that the Governor of that State, to whom the matter was referred, asserts positively that British and Canadian vessels are not prohibited from navigating the canals on the same terms as American vessels; and the Auditor of the Canal Department declares that he is not aware of any instance in which a Canadian vessel has been prevented from entering the canals.

I have forwarded copies of Mr. Fish's note, and of its inclosures, to the Governor-General of Canada.

I have, &c.
(Signed) EDWD. THORNTON.

Inclosure 1 in No. 10.

Mr. Fish to Sir E. Thornton.

Sir, *Department of State, Washington, December* 8, 1874.

IN your note of the 23rd of November last, you informed me that you had received a despatch from the Earl of Dufferin, transmitting a copy of a Report of a Committee of the Privy Council of the Dominion of Canada, in which it is stated that, whilst all the Canadian canals have been opened to vessels of the United States, Canadian vessels are entirely excluded from all the canals of the United States, and particular reference was made to the canals of New York. A copy of your note was transmitted to the Governor of the State of New York, and his attention called to the complaint.

I herewith inclose to you a copy of the reply of the Governor of New York, and of the reports and correspondence which accompanied it.

I have, &c.
(Signed) HAMILTON FISH.

Inclosure 2 in No. 10.

State of New York Executive Chamber, Albany,
Sir, *December* 4, 1874.

ON the receipt of your communication of the 24th ultimo, I referred it, with the accompanying documents, to the Auditor of the Canal Department for a report. I inclose a copy of his letter to me, a copy of a letter from him to the Canal Collector at Whitehall, and the reply (original) of the latter, also a copy of a telegraphic despatch of the Auditor to the Collector, and an original telegraphic despatch from the latter in reply. It appears by these papers that British steamships are allowed to navigate our canals on terms of equality with citizens of the United States, and that the Canadian Authorities have been misinformed in regard to the exclusion of British or Canadian vessels from the Champlain Canal at Whitehall.

In his annual message in January, 1872, Governor Hoffman called the attention of the Legislature to the subject in pursuance of the request of the President of the United States, and submitted the XXVIIth Article of the Treaty of the 8th May, 1871, between the United States and Great Britain, recommending the prompt passage of any laws which might be necessary for the fulfilment of the agreement on the part of the Federal Government. No laws were passed, for the reason that there were no restrictions to be removed.

I have, &c.
(Signed) JOHN A. DIX.

Hon. Hamilton Fish, Secretary of State.

Telegram, dated Albany, November 30, 1874.

Collector Canal Tolls, Whitehall,

Have British or Canadian boats, loading at any Canadian port or in ballast, ever been prohibited by you from passing Whitehall through the Champlain Canal to the Hudson River?

(Signed) FRANCIS S. THAYER, *Auditor.*

Telegram, dated Whitehall, November 30, 1874.—(*Received at Albany, November* 30.)

To Francis S. Thayer, Auditor,
No, Sir. J. W. Ingall, 1st Clerk, Collector absent.

State of New York, Canal Department, Albany,
My dear Sir, *November* 30, 1874.

I am in receipt, through you, of communications from the Department of State at Washington referring our State Government to alleged violations of Article XXVII of the Treaty of Washington.

The laws of the State and canal regulations give to American citizens and British subjects equal rights and privileges in navigating all our canals, and this Department has not, to my knowledge, before been advised of any violation of said Article. The charges made are general, and for this reason difficult of investigation; hence I beg leave to suggest that the Canadian Government be respectfully asked to cite some particular case of grievance, giving date, name of boat, master, &c.; and should the matter again be referred to this Department, I assure your Excellency that it will receive prompt and faithful attention.

With, &c.
(Signed) FRANCIS S. THAYER,
Auditor of the Canal Department.

To His Excellency John A. Dix, Governor,
&c. &c. &c.

State of New York, Canal Department, Albany,
Dear Sir, *November* 30, 1874.

It is alleged by Authorities of Canada that, since the spring of 1871, the citizens of the Dominion have been denied the right to navigate the Champlain Canal with their boats. There never has been a statute or regulation of this State which would exclude the citizens of Canada, or any other State or Government, from the use of our canals upon equal terms with our own citizens, and no specific complaint has been made to this Department by any citizens of Canada that they have been denied the use of our canals. But the Government of Canada complain to our Government at Washington that boats owned and loaded in Canada, upon arrival at Whitehall, and desiring to proceed through the Champlain Canal, have been refused clearance. Has any such case occurred during your term of office, and if so under what authority were such boats excluded? Washington J. Smith and Samuel L. Dwight were collectors in 1871, 1872, and 1873. I wish you would consult with them and ascertain whether any Canada boats were denied clearances during their terms, and if so upon what grounds and by what authority. Please reply promptly and fully.

Yours truly,
(Signed) FRANCIS S. THAYER, *Auditor.*

W. A. Wilkins, Esq., Canal Collector,
Whitehall, New York.

Dear Sir, *Whitehall, New York, December* 1, 1874.

In reply to yours of November 30th, I would say that, during my term of office, no Canadian boat has made application for a clearance. Mr. Dwight, my predecessor, informs me that no boat ever applied for a clearance during his term hailing from Canada. W. J. Smith, who preceded Mr. Dwight, is at St. Louis, but his head clerk has no recollection of any Canada boat ever making application for a clearance. Had any applied we should have granted them a clearance if they had conformed with the law.

Yours, &c.
(Signed) W. A. WILKINS, *Collector.*

Hon. Francis S. Thayer.

No. 11.

Mr. Bourke to Mr. Herbert.

Sir, *Foreign Office, January* 5, 1875.

WITH reference to Lord Tenterden's letter of the 18th ultimo, I am directed by the Earl of Derby to transmit to you, to be laid before the Earl of Carnarvon, a copy of a despatch from Sir E. Thornton,* inclosing correspondence, from which it appears that the United States' authorities assert that Canadian vessels have not been excluded from the use of the canals in the United States.

I am, &c.

(Signed) ROBERT BOURKE.

No. 12.

Mr. Malcolm to Mr. Bourke.—(Received January 29.)

Sir, *Downing Street, January* 28, 1875.

IN reply to your letter of the 5th instant, I am directed by the Earl of Carnarvon to transmit to you, for the information of the Earl of Derby, a copy of a despatch which has been addressed to the Governor-General of Canada with regard to the denial by the United States' authorities of the statement of the Canadian Government that Canadian vessels are excluded from the canals in the United States.

I am, &c.

(Signed) W. R. MALCOLM.

Inclosure in No. 12.

The Earl of Carnarvon to the Earl of Dufferin.

My Lord, *Downing Street, January* 12, 1875.

I HAVE the honour to inform you, with reference to your despatch of the 19th of November, that I have received, through the Foreign Office, copies of the two notes which the United States' Secretary of State has addressed to the British Minister at Washington, a reply to the representation made by your Government on the subject of the exclusion of British subjects from the State canals referred to in the XXVIIth Article of the Treaty of Washington.

From the latter of these notes, copies of which appear to have been communicated to you by Sir E. Thornton, I learn that the Governor of the State of New York asserts positively that British and Canadian vessels are not prohibited from navigating the canals on the same terms as American vessels; and that the Auditor of the Canal Department declares that he is not aware of any instance in which a Canadian vessel has been prevented from entering the canals.

I should be glad if your Lordship would furnish me with some information as to the grounds on which your Government founded their representation, and intimate to me whether they continue to be of opinion that there was cause for it.

I have, &c.

(Signed) CARNARVON.

No. 13.

Mr. Malcolm to Lord Tenterden.—(Received March 12.)

Sir, *Downing Street, March* 11, 1875.

WITH reference to my letter of the 28th of January, I am directed by the Earl of Carnarvon to transmit to you, for the information of the Earl of Derby, a copy of a despatch from the Governor-General of Canada, inclosing a Minute of the Canadian Privy Council, stating the grounds on which the representation that British subjects were excluded from the canals in the United States was founded.

I am, &c.

(Signed) W. R. MALCOLM.

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* No. 10.

Inclosure 1 in No. 13.

The Earl of Dufferin to the Earl of Carnarvon.

My Lord, *Government House, Ottawa, February* 19, 1875.

THE Privy Council of the Dominion have had under consideration your Lordship's despatch of the 12th ultimo, having reference to the representations made by my Government to Her Majesty's Minister at Washington on the subject of the exclusion of British subjects from the State canals referred to in the Treaty of Washington, and I have now the honour of submitting a Minute of Council, which states the grounds on which the Canadian Government founded the representations alluded to.

I have, &c.

(Signed) DUFFERIN.

Inclosure 2 in No. 13.

Report of a Committee of the Honourable the Privy Council, approved by His Excellency the Governor-General in Council, on the 18*th February,* 1875.

THE Committee have had under consideration the despatch dated 12th January, 1875, from the Right Honourable Her Majesty's Secretary of State for the Colonies, stating that he has received, through the Foreign Office, copies of the two notes which the United States' Secretary of State has addressed to the British Minister at Washington in reply to the representation made by the Canadian Government on the subject of the exclusion of British subjects from the State canals, referred to in the 27th Article of the Treaty of Washington, and that from the latter of these notes he learns that the Governor of the State of New York asserts positively that British and Canadian vessels are not prohibited from navigating the canals on the same terms as American vessels, and that the Auditor of the Canal Department declares that he is not aware of any instance in which a Canadian vessel has been prevented from entering the canals.

Her Majesty's Minister adds that he should be glad if your Excellency would furnish him with some information as to the grounds on which your Government founded their representation, and intimate to him whether they continue to be of opinion that there was cause for it.

The Honourable the Minister of Marine and Fisheries, to whom this despatch has been referred, reports that the grounds on which the Canadian Government founded the representation alluded to, were statements made by two of its officers, viz., the Collector of Customs at St. Johns, Province of Quebec, and the Collector of Customs at Fort Erie, Ontario, near Buffalo, United States, both officers residing at ports on the frontier, and being intimately acquainted with the canal trade between Canada and State of New York, to the effect that Canadian vessels were not allowed to carry cargoes from Canada through the canals of that State, and that in this statement they were supported by some of the principal Canadian forwarders and owners of canal boats, who all agreed that Canadian canal boats were practically prohibited from navigating the canals of the State of New York on the same terms as American canal boats; that on making further inquiry, however, as to whether any particular case could be cited in which the owner, master or agent of a Canadian canal boat had applied for permission to carry cargo through the canals of New York, and had been refused such permission, he cannot ascertain that any such case has occurred since 1871, the date of the Treaty, although cases have been reported to him where Canadian canal boats with cargoes from Canada to the United States were refused permission to navigate these canals, and were detained at Whitehall, State of New York, by the canal authorities, although built expressly for that trade.

That he has also been informed by some Canadian canal boat drovers and forwarders that the probable reason why no case can be cited of Canadian vessels having been refused permission since 1871 to navigate these canals, is, that the persons engaged in this trade on both sides of the line were so convinced that no change had taken place in the policy of the authorities of the State of New York in this respect, since the seizure of the Canal boats alluded to some years previous to 1871, that they made no attempt to test the question since 1871, as the canal boats usually employed by Canadian forwarders are too large to navigate the New York canals, and they could

not afford to build canal boats specially adapted for such canals until they were assured that they would be allowed to navigate them.

That it appears also that in 1871, when the Governor of the State of New York was urged by the United States' Government to take the necessary action to carry into effect the object of the Article of the Treaty on this subject, he informed the United States' Secretary of State that he had consulted the legal advisers of the State, who did not appear to think there was any law of that State which prohibited British subjects from navigating its canals on terms of equality with citizens of the United States, but that he would, with great pleasure, call the attention of the Legislature to the subject, and recommend them to pass such laws as they may find to be necessary to carry into effect at once the agreement made in the XXVIIth Article of the Treaty; and that, as he, the Minister of Marine and Fisheries, has never been able to learn that any such laws were passed by the Legislature of that State, it is probable that this has also tended to prevent Canadian canal boat owners from building vessels suitable for these canals, and testing the question as to whether they would be permitted to navigate them.

That, as the Governor of the State of New York asserts positively that Canadian vessels are not prohibited from navigating these canals on terms of equality with American vessels, he, the Minister, recommends that Her Majesty's Secretary of State for the Colonies be informed that the Canadian Government no longer continues to be of opinion that Canadian vessels are excluded from the canals of the State of New York, and will take the necessary steps to promulgate officially this important information, in order that Canadian canal boat owners and forwarders may be enabled to take advantage of the privilege referred to.

The Committee concur in the foregoing recommendation, and submit the same for your Excellency's approval.

Certified,
(Signed) W. A. HIMSWORTH,
Clerk, Privy Council, Canada.

No. 14.

The Earl of Derby to Sir E. Thornton.

Sir, *Foreign Office, March* 13, 1875.

I REFERRED to Her Majesty's Secretary of State for the Colonies your despatch of the 14th of December, relative to the supposed exclusion of British subjects from the United States' canals, and I now transmit to you herewith, for your information, a copy of a letter, with its inclosures, which has been received in reply.*

I am, &c.
(Signed) DERBY.

No. 15.

Sir E. Thornton to the Earl of Derby.—(Received September 19.)

My Lord, *Washington, September* 6, 1875.

I HAVE the honour to inclose copy of a despatch which I have received from the Administrator of the Government of Canada, from which your Lordship will perceive that the United States' Government virtually refuses to allow vessels carrying the British flag to navigate the canals of this country, by so interpreting a law as to make it impossible for British vessels to carry goods in bond through those canals. If the proper interpretation has been given to this law, it is opposed to the provisions of the XXVIIth Article of the Treaty of Washington; and as the Treaty is posterior to the law, the provisions of the former ought to overrule the enactments of the law.

I have, therefore, addressed a note to the Acting Secretary of State, copy of which is inclosed, embodying the contents of the Report of the Committee of the Privy Council of Canada, a copy of which is inclosed in Sir William Haly's despatch.

I have, &c.
(Signed) EDWD. THORNTON.

Inclosure 1 in No. 15.

Sir W. Haly to Sir E. Thornton.

Sir, *Halifax, Nova Scotia, August* 30, 1875.

I HAVE the honour to inclose herewith a copy of a Report of my Privy Council, which has received my approval, relative to the imposition upon Canadian vessels of certain restrictions in the use of the Champlain Canal.

I shall feel much obliged if, in accordance with the wishes of my Privy Council, you will make this matter the subject of such representations to the Government of the United States as you may deem expedient.

I have, &c.

(Signed) W. O. G. HALY.

Inclosure 2 in No. 15.

Report of a Committee of the Honourable the Privy Council, approved by his Excellency the Administrator of the Government on the 27th August, 1875.

THE Committee of the Privy Council have had under consideration the Report hereunto annexed from the Honourable the Minister of Customs, having reference to certain restrictions placed upon the use of the Champlain Canal by Canadian vessels, and they respectfully submit their concurrence in the said Report, and advise that a copy thereof be transmitted to Her Majesty's Minister at Washington, with a view to the matter complained of being represented to the Government of the United States.

Certified,

(Signed) W. A. HIMSWORTH,

Clerk Privy Council, Canada.

The undersigned Minister of Customs has the honour to submit for the consideration of his Excellency the Administrator of the Government in Council the following information respecting certain restrictions placed upon the use of the Champlain Canal by Canadian vessels, and to request that it be made the subject of the communication to Her Majesty's Minister at Washington.

From the result of former correspondence upon a similar subject it was ascertained that an Act of the Legislature of the State of New York secured the mutual use of the canals of Canada and the United States to the vessels of each country, respectively, on equal terms, as per Article XXVII of the Treaty of Washington; but, from documents herewith submitted, it appears that there are still certain difficulties placed in the way of Canadian vessels availing themselves of the right to navigate the Champlain Canal, which the people of this Dominion feel was secured to them by said Treaty.

These documents consist, 1st, of a letter from J. W. McRae, Esq., President of the Ottawa and Rideau Forwarding Company, of the 28th of May, 1875, addressed to the Minister of Marine and Fisheries, in which he complains that "lumber cannot be bonded in Canadian vessels going through the United States' canals;" 2nd, a letter from J. Parmerter, Esq., Collector of Customs, Plattsburgh, New York, dated 28th June, 1875, confirmatory of Mr. McRae's assertion, and giving as a reason the provisions of sec. 2,771 Revised Statutes of the United States, which reads as follows:—"Vessels which are not vessels of the United States shall be admitted to unlade only at ports of entry established by law, and no such vessel shall be admitted to make entry in any other district than in the one in which she shall be admitted to unlade." The third is the affidavit of one Orrin Judson Belden, of Fort Ann, Washington County, New York, dated 14th August, 1875, detailing the particulars of a case in which he was refused by the Collector of the United States' Customs at Rouse's Point, during the present summer, to load a cargo of lumber which he had shipped in the barge "H. F. Burrill," at the Port of Brockville, Canada, for the Port of New York, United States, on the ground that she was a British bottom, and therefore not entitled to the privilege.

The principal question for consideration is whether the law quoted by the Collector of Plattsburgh will properly bear the interpretation which he alleges is given to it by the Treasury Department of the United States, which is, in effect, that

a British vessel cannot take a cargo in bond through a canal belonging to the United States to a port in another Customs' district.

That interpretation being based upon the following words: "and no such vessel shall be admitted to make entry in any other district than the one in which she shall be admitted to unlade," it is submitted that the mere act of the master of the vessel reporting and giving bond at an intermediate port to secure the ultimate payment of duty upon, or properly accounting for, his cargo at his port of destination (when the said cargo must necessarily be subjected to full examination as well as entry) cannot be the description of entry to which the terms of the Act apply, but is only adopted as a means of preventing any violation of the Customs' laws *en route*. It must be remembered that a vessel bound from a Canadian port to the Port of New York must of necessity pass through the Champlain Canal to complete her voyage, and the entry proper of such vessel and cargo should take place at the termination of such voyage; any forms essential for the security of the revenue at intervening ports cannot be properly termed entries in the sense of the law.

The principal value of the free navigation of the Champlain Canal to Canadian vessels consists in the right to carry cargoes by that route to the Port of New York; and if the Act quoted is construed as stated in Mr. Parmerter's letter, it renders the provisions of the Washington Treaty, so far as the navigation of that canal is concerned, practically useless to Canada.

With reference to the affidavit of Captain Belden it will be observed that he claims not only to be a citizen of the United States, but that his vessel also is in fact an American bottom, as, although she virtually changed hands in Canadian waters, her certificate of American registry was never surrendered, nor was she ever registered in Canada. The point, however, of interest in the present question is that she was refused the privilege of taking cargo through the canal in bond, on the sole ground of her being a British vessel, and is here presented as corroborative of the fact that the prohibition is enforced by the United States' Customs Office.

The undersigned Minister of Customs recommends that his Excellency will make this matter the subject of a despatch to Her Britannic Majesty's Minister at Washington, with a view to his calling the attention of the United States' Government thereto, with a hope that an order may issue which will have the effect to remove the restrictions complained of.

(Signed) ISAAC BURPEE.

Customs Department, Ottawa, October 18, 1875.

Inclosure 3 in No. 15.

Ottawa and Rideau Forwarding Company,
Ottawa, Ontario, May 28, 1875.

Sir,

WE are notified by the United States' Customs officials at Rouse's Point, New York, that lumber cannot be bonded in Canadian vessels going through United States' canals. As this will be a serious drawback to Canadian forwarders, I would most respectfully submit it for your consideration. As to its legality, I cannot understand how they can have such a law, while their vessels are allowed the free use of our dominion canals on the same footing as Canadian vessels.

Yours, &c.
(Signed) J. McRAE.

To the Hon. Minister of Marine and Fisheries,
&c. &c. &c.

Mr. Parmerter to Captain L. Jones, Montreal.

Custom-House, Plattsburgh, New York,
Collector's Office, June 28, 1875.

Sir,

I have the honour to acknowledge the receipt of your letter of the 1st instant, wherein you ask for the following information, viz.:—Whether Canada barges will be allowed to pass from Rouse's Point to New York with foreign merchandize in bond. In reply, I beg to inform you that the United States' laws, as construed by the Treasury Department, prohibit the trade in question, so far as British vessels are concerned. Section 2771 Revised Statutes United States reads as follows:—"Vessels

which are not vessels of the United States shall be admitted to unlade only at ports of entry established by law, and no such vessel shall be admitted to make entry in any other district than in the one in which she shall be admitted to unlade."

Respectfully, &c.

(Signed) J. PARMERTER,

Collector of Customs.

County of Carleton.

I, Orrin Judson Belden, of the town of Fort Ann, Washington County, in the State of New York, boat captain, make oath and say,—

1. That barge "H. F. Berrill," of Hordford, New York, was wrecked one or two years ago in the harbour of Montreal, and taken by the parties who damaged her, they being Canadians (the vessel had the American register, which appears to have been lost at the time of damaging); the said barge was never registered as a British vessel; after being repaired, was sold to Davil Rice, of Fort Ann aforesaid, lumber merchant, who again sold her in the spring of this year to me the said Belden.

2. I took with her the said vessel a load of coal from the city of Roundout, in the said State of New York, to the city of Montreal, passing through Hudson River, Champlain Canal, Champlain Lake, Resheben and St. Lawrence Rivers, and from thence to Brockville, in the province of Ontario, light for a load of lumber, which said lumber was consigned to New York city, which said lumber I expected to bond from Rouse's Point, in the State of New York, to the said port, New York.

3. On arrival at United States' Customs-house at Rouse's Point, in the district of Champlain, in the said State of New York, I was informed that my said cargo of lumber could not be bonded to the said city of New York, it being contrary to the laws of the United States of America for lumber to be bonded in British bottoms only to unload in the same district in which she entered; and as the cargo of lumber of the said barge was for a different district, I was obliged to unload the said lumber upon another boat, which said boat, being an American bottom, took my said cargo through in bond to the said city of New York.

That the United States authorities or officers in connection with the said Customs-house at Rouse's Point refused to permit the said barge "Berrill" to carry the said lumber in bond to the said city of New York, and that the reason of the same was that she was considered by them a British bottom.

(Signed) ORRIN J. BELDEN.

Sworn before me, at Ottawa, in the county of Carleton, in the province of Ontario, this 14th day of August, 1875,

(Signed) Geo. Hay, *J.P.*

Inclosure 4 in No. 15.

Sir E. Thornton to Mr. Hunter.

Sir, *Washington, September* 3, 1875.

AT the request of the Administrator of the Government of Canada, I have the honour to submit for your consideration information which he has received respecting certain restrictions placed upon the use of the Champlain Canal by Canadian vessels.

I have understood, from previous correspondence with the Secretary of State, that the State of New York allows the use of its canals to British vessels, in accordance with the provisions of Article XXVII of the Treaty of Washington; but from documents, copies of which I have the honour to inclose, it appears that there are still certain difficulties placed in the way of Canadian vessels availing themselves of the right to navigate the Champlain Canal.

These documents consist, firstly, of a letter from Mr. J. W. McRae, President of the Ottawa and Rideau Forwarding Company, of 20th May, 1875, addressed to the Canadian Minister of Marine and Fisheries, in which he states that "lumber cannot be bonded in Canadian vessels going through the United States' canals." Secondly, a letter from J. Parmerter, Esq., Collector of Customs, Plattsburgh, New York, dated 28th June, 1875, confirming Mr. McRae's assertion, and giving as a reason the provisions of Section 2771 of the Revised Statutes, which reads as follows:—

"Vessels which are not vessels of the United States shall be admitted to unlade only at

ports of entry established by law, and no such vessel shall be admitted to make entry in any other district than in the one in which she shall be admitted to unlade." The third is the affidavit of one Owen Judson Belden, of Fort Ann, Washington County, New York, dated 14th August, 1875, detailing the particulars of a case in which he was refused by the Collector of the United States' Customs at Rouse's Point, during the present summer, to bond a cargo of lumber which he had shipped in the barge "H. F. Burrill," at the port of Brockville, Canada, for the port of New York, on the ground that she was a British bottom, and therefore not entitled to the privilege.

The principal question for consideration is whether the law quoted by the Collector at Plattsburgh will properly bear the interpretation which he alleges is given to it by the Treasury Department of the United States, and which is, in effect, that a British vessel cannot take a cargo in bond through a canal belonging to the United States to a port in another Customs district.

The interpretation being based upon the following words, "And no such vessel shall be admitted to make entry in any other district than the one in which she shall be admitted to unlade," it is submitted that the mere act of the master of the vessel reporting and giving bond at an intermediate port, to secure the ultimate payment of duty upon, or properly accounting for, his cargo at his port of destination (where the said cargo must necessarily be subjected to full examination, as well as entry), cannot be the description of entry to which the terms of the Act apply, but is only adopted as a means of preventing any violation of the Customs laws during the voyage. A vessel bound from a Canadian port to the port of New York must pass through the Champlain Canal to complete her voyage, and the entry proper of such vessel and cargo should take place at the termination of such voyage; any forms essential for the security of the revenne at the intervening ports cannot be properly termed entries in the sense of the law.

With reference to the affidavit of Captain Belden, it will be seen that his vessel was refused the privilege of taking cargo through the canal in bond on the sole ground of being a British bottom.

As no such restrictions are placed upon United States' vessels in their navigation through the Canadian canals, I venture to hope that the question will receive the favourable consideration of the Secretary of the Treasury, and that he will not insist upon the interpretation given by the Collector of Customs at Plattsburgh to Section 2771 of the Revised Statutes.

I have, &c.
(Signed) EDWD. THORNTON.

No. 16.

Mr. Lister to Mr. Herbert.

Sir, *Foreign Office, September* 21, 1875.

I AM directed by the Earl of Derby to transmit to you a despatch and its inclosures from Her Majesty's Minister at Washington* relative to the virtual exclusion of vessels under the British flag from the canals of the United States by a law which has been so interpreted as to prevent their carrying goods in bond through the canals; and I am to request that, in laying this despatch before the Earl of Carnarvon, you will state to his Lordship that Lord Derby proposes, with his concurrence, to approve the representation which Sir E. Thornton has addressed to the United States' Government on the subject.

I am, &c.
(Signed) T. V. LISTER.

No. 17.

Sir E. Thornton to the Earl of Derby.—(Received October 3.)

(Extract.) *Washington, September* 20, 1875.

WITH reference to my despatch of the 6th instant, in which I inclosed copy of a note which I had addressed to the Acting Secretary of State relative to the navigation of the United States' canals by Canadian vessels, I have the honour to

* No. 15.

state that Mr. Hunter's answer reached me on the 14th instant, and I have the honour to inclose copies of it, and of its inclosure. Mr. Hunter merely transmits, without any comment, a letter from the Secretary of the Treasury, in which the latter limits himself to stating that the question had been already considered, and that it had been decided that Canadian vessels could not transport cargo from any port in the United States through the Champlain Canal to any other port of the United States.

I therefore, on the 15th instant, addressed another note to Mr. Hunter, copy of which I have the honour to inclose. In this note I pointed out to him in the first place that, in my previous communication, I had not referred to the transport of goods by Canadian vessels from one port in the United States to another, but from a port in Canada to a port in the United States, through the canals of the latter. I then proceeded to show that the prohibition of such navigation by Her Majesty's subjects on terms of equality with citizens of the United States was an infraction of the above-mentioned Article of the Treaty of Washington.

Mr. Fish returned to Washington on the 16th instant, and answered my note on the 18th instant, merely acknowledging its receipt, and stating that a copy of it had been submitted for the consideration of the Secretary of the Treasury. A copy of Mr. Fish's answer is also inclosed. Your Lordship will notice the observation he makes, that it appears from my note that the privilege is claimed under the XXVIIth Article of the Treaty of Washington.

Inclosure 1 in No. 17.

Mr. Hunter to Sir E. Thornton.

Sir, *Department of State, Washington, September* 13, 1875.

REFERRING to your note of the 3rd instant in relation to the use of the Champlain Canal by Canadian vessels, I have the honour to transmit herewith a copy of a letter upon the subject, dated the 10th instant, which has been received from the Secretary of the Treasury, to whom the matter was referred.

I have, &c.

(Signed) WM. HUNTER, *Acting Secretary.*

Inclosure 2 in No. 17.

Mr. Bristow to Mr. Fish.

Treasury Department, Washington, D.C.,

Sir, *September* 10, 1875.

I HAVE the honour to acknowledge the receipt of your letter of the 7th instant, submitting for my consideration a copy of a communication from the British Minister, relating to the use of the Champlain Canal by Canadian vessels.

I reply that the question presented has been considered by this Department, heretofore, and that it was decided that such vessels could not legally transport cargo from any port in the United States, through said Canal to any port of the United States.

I have, &c.

(Signed) B. H. BRISTOW, *Secretary.*

Inclosure 3 in No. 17.

Sir E. Thornton to Mr. Hunter.

Sir, *Washington, September* 15, 1875.

I HAVE the honour to acknowledge the receipt of your note of the 13th instant, inclosing copy of a letter from the Honourable Secretary of the Treasury, relating to the use of the Champlain Canal by Canadian vessels. In this letter, the Secretary states that the question presented has been considered by his Department heretofore, and that it was decided that such vessels could not legally transport cargo from any port in the United States, through said canal, to any other port of the United States.

In my note of the 3rd instant, I did not mean to allude to the transport of goods in Canadian vessels from one port in the United States to another, through the United States' canals. I referred to the transport of goods in British vessels, from a port in Canada, through the United States' canals, to a port in the United States.

The Government of the United States, engaged by the XXVIIth Article of the Treaty of Washington to urge upon the State Governments to secure to the subjects of Her Britannic Majesty the use of the several State canals connected with the navigation of the lakes and rivers traversed by, or contiguous to, the boundary line between the possessions of the High Contracting Parties, on terms of equality with the inhabitants of the United States. The State of New York, in reply to a representation made to it by the President, declared that there was no law which prohibited the free navigation by Canadian vessels of the canals within that State. It cannot be supposed that the United States' Government, after urging the State Governments to secure that Navigation to British subjects, should itself prohibit it by means of a law of the United States.

The representation submitted in my note of the 3rd instant, was that Canadian vessels should be allowed to carry from a port in Canada cargo in bond through the United States' canals to a port in the United States. United States' vessels have this privilege in their own canals, as well as in those of Canada. By the XXVIIth Article of the Treaty, Her Majesty's subjects are placed in this respect on terms of equality with the inhabitants of the United States.

The Secretary of the Treasury does not state on what ground the decision has been arrived at by his Department, but if it is intended that British vessels are not to have in the canals of the United States described in the above-mentioned Article the same privileges as citizens of the United States, it certainly appears to be in contravention of that Article.

The Act of Congress of March 2nd, 1799, the correctness of the interpretation of which I ought, perhaps, to have abstained from discussing in my note of the 3rd instant, is, however, if so interpreted, in conflict with the provisions of the XXVIIth Article of the Treaty; but as its date is long anterior to that of the Treaty, I apprehend that its provisions, so far as they may be in conflict with those of the Treaty, have been superseded, with regard to British vessels, by the stipulations of that international engagement, which received the sanction of the Senate of the United States.

I venture to hope, therefore, that the subject may receive the consideration of the Government of the United States, and that such measures may be taken as will secure to Her Majesty's subjects the free navigation of the canals described in Article XXVII of the Treaty of Washington, on terms of equality with the inhabitants of the United States.

I have, &c.
(Signed) EDWD. THORNTON.

Inclosure 4 in No. 17.

Mr. Fish to Sir E. Thornton.

Sir, *Department of State, Washington, September* 18, 1875.

I HAVE the honour to acknowledge the receipt of your note of the 15th instant, in further relation to the use of the Champlain Canal by Canadian vessels, by which it appears that the privilege is claimed under the XXVIIth Article of the Treaty of Washington.

In reply, I have to inform you that a transcript of your note has been submitted for the consideration of the Secretary of the Treasury.

I have, &c.
(Signed) HAMILTON FISH.

No. 18.

Mr. Lister to Mr. Herbert.

Sir, *Foreign Office, October* 6, 1875.

WITH reference to my letter of the 21st ultimo, I am directed by the Earl of Derby to transmit to you a further despatch from Her Majesty's Minister at Washington* relative to the restrictions on the navigation of the United States' canals by Canadian vessels; and I am to request that, in laying this despatch before the Earl of Carnarvon, you will state to his Lordship that Lord Derby proposes, with his concurrence, to approve the course pursued by Sir E. Thornton in the matter.

I am, &c.

(Signed) T. V. LISTER.

No. 19.

Mr. Herbert to Mr. Lister.—(Received October 7.)

Sir, *Downing Street, October* 6, 1875.

I AM directed by the Earl of Carnarvon to acknowledge the receipt of your letter of the 21st of September, inclosing a copy of a despatch from Sir E. Thornton, with its inclosures, relating to the imposition by the United States' law of certain restrictions upon Canadian vessels in the use of the United States' canals.

Lord Carnarvon desires me to request that you will inform the Earl of Derby that his Lordship concurs in the approval proposed to be conveyed to Sir E. Thornton of the representation which he has addressed in regard to this matter to the United States' Government.

I am, &c.

(Signed) ROBERT G. W. HERBERT.

No. 20.

Sir E. Thornton to the Earl of Derby.—(Received October 10.)

My Lord, *Washington, September* 27, 1875.

DURING my visit to Mr. Fish at the State Department on the 23rd instant, I referred to my note to Mr. Hunter of the 15th instant, relative to the navigation of the United States' canals by Canadian vessels, and expressed my hope that the Government of the United States would take a liberal view of the question, and would secure to Canadian vessels the enjoyment of all privileges in the canals which were open to United States' vessels. I could not suppose that, after the United States' Government had obtained from the State of New York the assurance that there was no law of that State which could prevent British vessels from using those canals, the Federal Government would interpose its power, either by law or regulations, to render nugatory the permission given by the State.

Mr. Fish replied that it was far from the intention of his Government to do so, and that he had already been urging upon the Secretary of the Treasury to treat the question with as much liberality as possible. But, whilst he could not speak officially on the subject until the question was decided by the Treasury Department, it seemed to him that the Revenue Laws of the United States would prevent the use of the entire navigation of the canals by Canadian vessels. The law of the United States provided that a vessel arriving in the United States with a cargo from abroad should enter and discharge her cargo at the first port of entry she met. In entering the United States through the Champlain Canal, the first port of entry would be Whitehall, at the northern extremity of the Whitehall Canal. There a vessel arriving with a foreign cargo, whether she were American or foreign, would be obliged to discharge her cargo. If a Canadian vessel had a fancy for navigating the canals further on, she could certainly do so, and go as far as Albany; but neither she nor an American vessel could carry a cargo there direct from a foreign port, because Albany would not be the first port of entry, nor, indeed, is it a port of entry at all.

* No. 17.

Mr. Fish added that he supposed that the idea and the object of the Canadian Government were that the Canadian boats should be enabled to bring cargo from Canada, through the canals and down the Hudson, to New York. This, he said, was impossible, by reason of the above-mentioned provision of the law with regard to the first port of entry, and because neither by the Treaty of Washington, nor by any other Treaty, had the navigation of the River Hudson been allowed to British or other foreign vessels.

I have, &c.
(Signed) EDWD. THORNTON.

No. 21.

Mr. Lister to Mr. Herbert.

Sir, *Foreign Office, October* 15, 1875.

WITH reference to my letter of the 6th instant I am directed by the Earl of Derby to transmit to you, to be laid before the Earl of Carnarvon for any observations which his Lordship may have to offer upon it, a copy of a despatch from Her Majesty's Minister at Washington, reporting a conversation with Mr. Fish, respecting the navigation by Canadian vessels of the United States' canals.*

I am, &c.
(Signed) T. V. LISTER.

No. 22.

Mr. Malcolm to Mr. Lister.—(Received October 15.)

Sir, *Downing Street, October* 14, 1875.

I AM directed by the Earl of Carnarvon to acknowledge the receipt of your letter of the 6th instant, and to state that his Lordship concurs in the approval which the Earl of Derby proposes to convey to Sir E. Thornton of the course taken by him in regard to the restrictions placed on the navigation of the United States' canals by Canadian vessels.

In returning herewith the inclosures which accompanied your letter, I am desired to request that copies may be furnished for the records of this Department.

I am, &c.
(Signed) W. R. MALCOLM.

No. 23.

The Earl of Derby to Sir E. Thornton.

Sir, *Foreign Office, October* 16, 1875.

I HAVE had under my consideration, in communication with Her Majesty's Secretary of State for the Colonies, your despatch of the 6th ultimo, relating to the imposition, by the United States' law, of certain restrictions upon Canadian vessels in the use of the United States' canals, and I have to acquaint you that the representation which you addressed to Mr. Hunter on the subject is approved by Her Majesty's Government.

I am, &c.
(Signed) DERBY.

No. 24.

The Earl of Derby to Sir E. Thornton.

Sir, *Foreign Office, October* 21, 1875.

I HAVE had under my consideration, in communication with Her Majesty's Secretary of State for the Colonies, your despatch of the 20th ultimo, together

* No. 20.

with its inclosures, on the subject of the navigation of the United States' canals by Canadian vessels, and I have to convey to you the approval of Her Majesty's Government of the note addressed by you to the Acting Secretary of State, pointing out that the interpretation placed by the United States' Government on the United States' law, which was made to prevent Canadian vessels from carrying goods in bond through the canals, was in conflict with the XXVIIth Article of the Treaty of Washington.

I am, &c.
(Signed) DERBY.

No. 25.

Sir E. Thornton to the Earl of Derby.—(Received December 12.)

(Extract.) *Washington, November 29, 1875.*

IN my despatch of the 20th of September last I had the honour to forward to your Lordship copy of a note which I had addressed on the 15th of that month to Mr. Hunter, respecting the navigation of the canals in the State of New York by Canadian vessels.

I now inclose copy of a note, and of its inclosure, which I have received from Mr. Fish in answer to my note above-mentioned. Your Lordship will perceive from the contents of the inclosure, which is a letter from the Secretary to the Treasury to Mr. Fish, that the former insists that Canadian vessels coming into the canals in the State of New York must unload at the first port of entry. He seems, however, to admit that the use of the Champlain Canal could be granted to Canadian vessels destined with cargoes to the southern terminus of the Canal, or to ports or places on Lakes Erie or Ontario.

But the Secretary of the Treasury refuses to recognize the right of Canadian vessels to transport cargoes in bond from Canada to New York.

I have forwarded a copy of Mr. Fish's note, and of its inclosure, to his Excellency the Governor-General of Canada.

Inclosure 1 in No. 25.

Mr. Fish to Sir E. Thornton.

Sir, *Department of State, Washington, November 24, 1875.*

REFERRING to your note of the 15th September last, in further relation to the use of the Champlain Canal by Canadian vessels, I have now the honour to inclose herewith a copy of a letter on the subject, dated the 9th ultimo, from the Secretary of the Treasury, to whom a transcript of your note was transmitted.

The delay in forwarding a copy of this note has arisen from certain examinations which it was deemed necessary to make in reference to the question discussed.

I have, &c.
(Signed) HAMILTON FISH.

Inclosure 2 in No. 25.

Mr. Bristow to Mr. Fish.

Sir, *Treasury Department, Washington, D.C., October 9, 1875.*

I HAVE the honour to acknowledge the receipt of your communication of the 17th ultimo, submitting a transcript of a note from Sir Edward Thornton upon the subject of a decision of this Department of the 25th of June last, reaffirmed on the 10th ultimo, in which the privilege of certain Canadian vessels to use the Champlain Canal was supposed to have been denied.

In a communication addressed to this Department on the 4th of June last, by the Collector of Customs at Plattsburgh, the question was raised whether certain barges belonging to the Ottawa and Rideau Forwarding Company could pass from Ottawa to New York by way of Lake Champlain, the Champlain Canal, and the Hudson River.

Presuming, of course, that these barges were to be laden with Canadian goods, the Collector was informed that such barges were compelled, under Section 2771, Revised Statutes, to unlade at Plattsburgh.

Under the provisions of Section 3097, Revised Statutes, all vessels laden with cargo, arriving in the United States from contiguous territory on the northern frontier, are obliged to make entry, and, under Section 2771, all vessels not of the United States, which made entry, must unlade where they make entry.

That Canadian barges destined for New York, arriving at Plattsburgh, must there enter and unlade, was the decision alluded to in the Department's letter of the 10th ultimo, in response to the communication of the State Department of the 7th ultimo, inclosing the first note of Sir Edward Thornton.

In the letter of the Collector of Plattsburgh the use by Canadian barges of the Champlain Canal was not presented as a question pure and simple, but the question was complicated with another, namely, whether the navigation of navigable waters of the United States (to wit, Lake Champlain and the River Sord), constituting the only accessible inlet to the Champlain Canal on the Canadian side, and other navigable waters of the United States (to wit, the Hudson River), forming the only accessible water communication between the Champlain Canal and the port of New York, were open to Canadian vessels with cargoes bonded to New York.

In view of the fact that the real question presented by the Collector was whether the navigable waters of the United States, contiguous to the northern frontier, were open to the navigation of Canadian vessels laden with cargoes in bond destined for New York, the Department could only reply that, under the provisions of Section 2771, Revised Statutes, such vessels must enter and unlade at the first port of entry at which they arrive in these waters.

But the Department might have gone further, and shown that under the first proviso of Section 4347, Revised Statutes, Congress had defined the limits within which British vessels could, under the Treaty of Washington of May 8, 1871, carry foreign merchandize from port to port within the United States, which limits are defined to be "upon the St. Lawrence, the great lakes, and the rivers connecting the same."

In his note of the 15th ultimo, the British Minister declares the purport of his previous note of the 3rd ultimo to have been to represent that Canadian vessels should be allowed to carry from a port in Canada cargoes in bond through the United States' canals to a port in the United States; that United States' vessels have this privilege in their own canals as well as in those of Canada; and that by the XXVIIth Article of the Treaty, Her Majesty's subjects are placed in this respect on terms of equality with the inhabitants of the United States.

Though by the terms of that Article the subjects of Her Majesty are to have the use of the several State canals connected with the navigation of the lakes or rivers traversed by or contiguous to the boundary line between the possessions of the High Contracting Parties, on terms of equality with the inhabitants of the United States, the purpose of the stipulation was, in my view, to grant the free use of such canals only in so far as they might facilitate communication between ports and places lying on the lakes and rivers in question, and not as the furnished communication between ports and places not lying on those lakes and rivers. The use of the Champlain Canal, in this view, could be granted to Canadian vessels destined with cargoes to the southern terminus of the canal, or to ports or places on Lakes Erie or Ontario, but not to Canadian vessels destined to ports and places lying remote from the waters of the northern lakes and rivers contiguous to the frontier between the two countries. The use of the Champlain Canal is to be given to Canadian vessels under the Treaty, in the same sense in which the use of the Welland Canal is granted to citizens of the United States, or the use of the St. Clair Flats' Canal to Her Majesty's subjects, namely, in furtherance of communication between ports and places lying, to use the language of the legislative construction given to the Treaty by Section 4347, Revised Statutes, "upon the St. Lawrence, the grea tlakes, and the rivers connecting the same."

In the face of the construction given to the Treaty by Congress, this Department does not feel authorized to recognize the right of Canadian vessels to transport cargoes in bond from Canada to New York.

I have, &c.

(Signed) B. H. BRISTOW, *Secretary.*

No. 26.

Lord Tenterden to Mr. Herbert.

Sir, *Foreign Office, December* 16, 1875.

WITH reference to Mr. Lister's letter of the 6th of October, I am directed by the Earl of Derby to transmit to you, to be laid before the Earl of Carnarvon, for his Lordship's information, the accompanying copy of a further despatch from Her Majesty's Minister at Washington, together with its inclosures, relative to the restrictions on the navigation of canals in the United States by Canadian vessels.*

I am, &c.

(Signed) TENTERDEN.

No. 27.

Sir E. Thornton to the Earl of Derby.—(Received March 27.)

(Extract.) *Washington, March* 13, 1876.

SOME days ago Sir Alexander T. Galt came from Canada to the United States, and paid me a visit at Washington. He took the opportunity of showing me, by the request of Mr. Mackenzie, as he said, a Memorandum giving the substance of the correspondence which has taken place relative to the navigation of the canals in the State of New York by Canadian vessels, and urged that I should renew my endeavours to induce the Government of the United States to ensure to British subjects the privilege stipulated by the Treaty of 1871.

In the above-mentioned Memorandum my attention was called to an Act of Congress of September 26th, 1850, which empowers the Secretary of the Treasury to permit vessels laden with the products of Canada to lade or unlade at any port or place within any collection district of the United States which he might designate. The substance of this Act is to be found in section 3129 of the "Revised Statutes of the United States." During my visit to the State Department, on the 9th instant, I called Mr. Fish's attention to the Act in question, again urging upon him that the stipulation of the XXVIIth Article of the Treaty of 1871 should not be rendered illusory by appealing to an Act of 1799 (see section 2771, "Revised Statutes of the United States"), which obliges vessels arriving from abroad to discharge at the first port of entry at which they touch. Mr. Fish seemed to be unaware of the existence of the Act of 1850, and said that he would consult with the Secretary of the Treasury upon the subject.

He has since told me that he has spoken to Mr. Bristow, and that the result of their conversation is that he will address a communication to him, suggesting that he should avail himself of the power granted by the Act of 1850, and should name Albany and Troy as two points at which vessels coming with produce from Canada might discharge their cargo, and take in a return cargo. These two places are, as it were, at the head of the tide-waters of the Hudson; and it appears to me that if Canadian vessels were allowed to reach them they would enjoy the navigation of the whole length of the canals in the State of New York.

Mr. Fish assured me that American vessels arriving with cargo from Canada were also now obliged to unload at the first port of entry at which they touched, and that if they were hereafter allowed to go on to Albany or Troy they would not be allowed to discharge at any intervening point. The same restriction would be imposed upon Canadian vessels; and, further, the latter would not be allowed to transport cargo from one port to another in the United States, which operation would be one of coasting trade, now reserved to American vessels.

No. 28.

Mr. Malcolm to Lord Tenterden.—(Received April 27.)

My Lord, *Downing Street, April* 26, 1876.

WITH reference to previous correspondence respecting the navigation of United States' canals by Canadian vessels, under the Treaty of Washington, I am directed by

* No. 25.

the Earl of Carnarvon to transmit to you, to be laid before the Earl of Derby, the inclosed copy of a despatch from the Governor-General of Canada, inclosing a copy of a Report of his Privy Council relating to this question.

Lord Carnarvon hopes that if, as would appear to be the case, the law cited by the Dominion Government removes any technical difficulty in complying with the reasonable demands of the Dominion, Sir E. Thornton may be instructed to press the United States' Government to carry out the engagements of the Treaty in a liberal spirit.

I am, &c.
(Signed) W. R. MALCOLM.

Inclosure 1 in No. 28.

The Earl of Dufferin to the Earl of Carnarvon.

My Lord, *Ottawa, April 6,* 1876.

I HAVE the honour to transmit herewith, for your Lordship's information, a copy of a report of my Privy Council, a duplicate of which I have this day communicated to Her Majesty's Minister at Washington, relative to the navigation by Canadian vessels of canals in the United States under the Treaty of Washington.

I have, &c.
(Signed) DUFFERIN.

Inclosure 2 in No. 28.

Report of a Committee of the Honourable the Privy Council, approved by His Excellency the Governor-General, on the 5th April, 1876.

THE Committee of Council have had under consideration the report of the Honourable the Minister of Customs, to whom has been referred the correspondence with the Washington Government concerning the navigation of the United States' canals by Canadian vessels.

The Minister states that he has considered the representations made by Mr. Secretary Fish in his despatch of 27th September, 1875, in which he remarks: "The law of the United States provided that a vessel arriving in the United States with a cargo from abroad should enter and discharge her cargo at the first port of entry she met, and that he supposed that the idea and object of the Canadian Government were that the Canadian boats should be enabled to bring cargo from Canada through the canals and down the Hudson through to New York. That this is impossible by reason of the above provisions of the law with regard to the first port of entry, and because neither by the Treaty of Washington, nor by any other Treaty, had the navigation of the River Hudson been allowed to British or other foreign vessels."

The Minister further states that, in a subsequent despatch of Mr. Secretary Bristow, dated 9th October, 1875, after reciting the circumstances and quoting the several laws bearing upon the case, he concludes with the following definite statement:—

"In the face of the construction given to the Treaty by Congress, this Department does not feel authorized to recognize the right of Canadian vessels to transport cargoes in bond from Canada to New York."

The Minister observes that, in this decision, apart from Treaty obligations, the Secretary of the Treasury does not appear to have taken into consideration an Act of Congress passed on the 26th September, 1850, which is to be found in the Statutes at large page 469, and which has been re-enacted and confirmed in the revised Statutes of 1875, page 603, sec. 3, 129, intituled "An Act to authorize the Secretary of the Treasury to permit vessels from the British North American provinces to lade and unlade at such places in any collection district in the United States as he may designate."

That this Act provides that "the Secretary of the Treasury, with the approbation of the President of the United States, provided the latter shall be satisfied that similar privileges are extended to vessels of the United States in the Colonies hereinafter mentioned, is hereby authorized under such regulations as he may prescribe to protect the revenue from fraud, to permit vessels laden with the products of Canada, New

Brunswick, Nova Scotia, Newfoundland, and Prince Edward Island, or either of them, to lade or unlade at any port or place within any collection district which he may designate."

The Minister, therefore, recommends that your Excellency be requested to communicate with Sir Edward Thornton, Her Majesty's Minister at Washington, and request him to call the attention of the Government of the United States to the above recited Act, and to press upon that Government the making of such arrangements as will at once secure the same privileges to Canadian vessels in United States' canals as are accorded to United States' vessels in Canadian canals.

The Committee concur in the foregoing recommendation, and submit the same for your Excellency's approval.

Certified,
(Signed) W. A. HIMSWORTH.

No. 29.

Lord Tenterden to Mr. Herbert.

Sir, *Foreign Office, May* 6, 1876.

I AM directed by the Earl of Derby to acknowledge the receipt of your letter of the 26th ultimo, inclosing copy of a despatch from the Governor-General of Canada, with a Minute of the Canadian Privy Council, calling attention to an Act of Congress of 1850, which authorizes the United States' Treasury to permit Canadian vessels to lade and unlade at certain parts of the United States' canals, and suggesting that Sir E. Thornton be instructed to press the United States' Government to carry out the engagements of the Treaty in a liberal spirit; and I am, in reply, to request that you will inform Lord Carnarvon that a copy of your above-mentioned letter will be sent to Sir Edward Thornton for his information.

I am, &c.
(Signed) TENTERDEN.

No. 30.

The Earl of Derby to Sir E. Thornton.

Sir, *Foreign Office, May* 6, 1876.

WITH reference to your despatch of the 13th of March, I transmit to you herewith, for your information, a copy of a letter from the Colonial Office,* inclosing copy of a despatch from the Governor-General of Canada in regard to the navigation of United States' canals by Canadian vessels under the Treaty of Washington, and suggesting that you should be instructed to press the United States' Government to carry out the engagements of the Treaty in a liberal spirit.

I am, &c.
(Signed) DERBY.

No. 31.

Sir E. Thornton to the Earl of Derby.—(Received May 20,)

My Lord, *Washington, May* 8, 1876.

I HAVE the honour to inclose copy of a note and of its inclosure, which I have received from Mr. Fish relative to the navigation of the canals in the State of New York by Canadian vessels. In this note Mr. Fish transmits me copy of a communication from the Treasury Department, of which, though the language is obscure, the substance seems to be that Canadian vessels may pass to the southern terminus of the Champlain Canal.

During my interview with Mr. Fish on the 4th instant, I pointed out to him that I did not quite understand what the Champlain Canal signified, nor where was its southern terminus, and that I thought that if it was really intended to comply with the

* No. 28.

terms of the Treaty of 1871, it would be desirable to express that intention in clearer words.

Mr. Fish replied that he considered that the Champlain Canal signified the Canal leading from the southern extremity of Lake Champlain, and connecting it with Troy and Albany, and that Albany was the southern terminus of that Canal. This Canal is generally called the Whitehall Canal.

I further asked whether Canadian vessels would be able to navigate the Erie Canal, which begins at Buffalo from Lake Erie, and the Oswego Canal, which enters from Lake Ontario at Oswego, and connects with the Erie Canal, and to proceed through those canals to Albany. Mr. Fish answered that he understood that Canadian vessels could certainly navigate those canals; but, upon my saying that I was not satisfied that this could be inferred from the contents of the communication from the Treasury Department, he suggested that I should address him a note expressing my views upon the subject.

In accordance with this suggestion, I addressed to Mr. Fish the note of which I have the honour to inclose a copy, but to which I have not as yet received an answer. I have also forwarded copies of the two notes to the Governor-General of Canada.

I have, &c.

(Signed) EDWD. THORNTON.

Inclosure 1 in No. 31.

Mr. Fish to Sir E. Thornton.

Sir, *Department of State, Washington, May* 3, 1876.

REFERRING to previous correspondence in reference to the privileges to be accorded to Canadian vessels in the use of the canals in the United States, and particularly in the State of New York, I have the honour to inform you that the attention of the Secretary of the Treasury having been called to the question, a reply was received from that officer upon the 5th of April, stating that a prior letter of October 10, but which is supposed to be an error for a letter of October 9, a copy of which was transmitted to you under date of November 24, 1875, concedes to Canadian vessels the privilege of passing to the southern terminus of the Champlain Canal, and that, if desired, instructions would be issued to the proper Custom's Officers to lend their aid thereto upon the same terms as are accorded to vessels of the United States, but suggesting that some further communication should be made on your part to that end.

I had supposed that this information had been communicated to you, but it appears that it was intended to confer with you on the question by reason of the suggestion that some further expression of your wishes should be made known.

I have now the honour to inclose you a copy of this letter of the Secretary of the Treasury, bearing date the 5th of April, and to express my regret that delay has occurred in conveying this information to you.

I have, &c.

(Signed) HAMILTON FISH.

Inclosure 2 in No. 31.

Mr. Corrant to Mr. Fish.

Sir, *Treasury Department, April* 5, 1876.

I HAVE the honour to acknowledge the receipt of your letter of the 11th ultimo, further in regard to the right, under the Treaty of Washington or existing United States' laws, of Canadian vessels to pass through the Champlain Canal laden with products of the Dominion of Canada, to the southern terminus of the Canal, or to points beyond.

Without considering the question now presented as to the applicability of section 3,129 of the Revised Statutes to the case, I have the honour to call your attention to the letter of this Department to you of the 10th of October last, in which the following language was used:—"The purpose of the stipulation (in Article XXVII of the Treaty of Washington) was, in my view, to grant the free use of such canals only in so far as they might facilitate communications between ports and places lying on the

lakes and rivers in question, and not as they furnished communication between ports and places not lying on those lakes and rivers. The use of the Champlain Canal, in this view, could be granted to Canadian vessels destined with cargoes to the southern terminus of the Canal, or to ports or places on Lakes Erie or Ontario."

In your letter of the 11th ultimo you state that you understand Sir Edward Thornton to say that it is not sought on the part of Canadian vessels to obtain the right to navigate the Hudson River, but only to pass to the terminus of the Canal at tide water.

It will be seen that the letter of this Department of October 10 concedes the right of Canadian vessels to pass to the southern terminus of the Champlain Canal, and if desired instructions will be given to the proper Customs officers to lend their aid thereto, upon the same terms as are now accorded to vessels of the United States.

The Department prefers to receive a further communication from Sir Edward Thornton upon the subject, before giving such instructions.

I have, &c.

(Signed) CHAS. F. CORRANT, *Acting Secretary.*

Inclosure 3 in No. 31.

Sir E. Thornton to Mr. Fish.

Sir, *Washington, May* 4, 1876.

I HAVE the honour to acknowledge the receipt of your note of yesterday's date, transmitting copy of a letter of the Secretary of the Treasury relative to the navigation of the canals of the State of New York by Canadian vessels. In this letter Mr. Bristowe states "that the letter of this department of October 10 concedes the right of Canadian vessels to pass to the southern terminus of the Champlain Canal, and, if desired, instructions will be given to the proper Customs' officers to lend their aid thereto, upon the same terms as are now accorded to vessels of the United States."

I presume that the city of Albany may be considered to be the "southern terminus of the Champlain Canal," and that Canadian vessels will be allowed to proceed to Albany by Lake Champlain and the Champlain Canal, on the same terms as are now accorded to vessels of the United States.

Neither can I doubt from the tenor of the letter of the 5th ultimo, addressed to you by the Secretary of the Treasury, that Canadian vessels may enter the Erie Canal at Buffalo, and the Oswego Canal at the place of that name, and proceed in like manner to Albany by those canals.

I shall feel much obliged if you will inform me whether the conclusions which I have arrived at are correct.

I have, &c.

(Signed) EDWD. THORNTON.

No. 32.

Lord Tenterden to Mr. Herbert.

Sir, *Foreign Office, May* 22, 1876.

I AM directed by the Earl of Derby to transmit to you, with reference to my letter of the 6th instant, a copy of a despatch from Sir E. Thornton,* inclosing copies of correspondence with Mr. Fish, in regard to the navigation of United States' canals by Canadian vessels; and I am to request that, in laying this despatch before the Earl of Carnarvon, you will inform him that Lord Derby proposes, with his Lordship's concurrence, to approve the course pursued by Sir E. Thornton in the matter.

I am, &c.

(Signed) TENTERDEN.

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* No. 31.

No. 33.

Mr. Malcolm to Lord Tenterden.—(*Received June 2.*)

Sir, *Downing Street, June* 1, 1876.

I AM directed by the Earl of Carnarvon to acknowledge the receipt of your letter of the 22nd ultimo, inclosing a despatch from Her Majesty's Minister at Washington forwarding a correspondence with Mr. Fish relating to the navigation of the United States' canals by Canadian vessels.

Lord Carnarvon concurs with Lord Derby in the proposed approval of the course pursued by Sir E. Thornton in this matter.

I am, &c.

(Signed) W. R. MALCOLM.

No. 34.

The Earl of Derby to Sir E. Thornton.

Sir, *Foreign Office, June* 6, 1876.

I REFERRED to Her Majesty's Secretary of State for the Colonies your despatch of the 8th ultimo, together with its inclosures, relative to the navigation of the United States' canals by Canadian vessels, and I have to convey to you the approval of Her Majesty's Government of the course adopted by you in the matter.

I am, &c.

(Signed) DERBY.

No. 35.

Sir E. Thornton to the Earl of Derby.—(*Received June 25.*)

(Extract.) *Washington, June* 12, 1876.

I HAVE the honour to inclose copy of a note which I have at length received from Mr. Fish, relative to the navigation of the canals of the State of New York by Canadian vessels. On its receipt, I at once sent a copy of it to the Governor-General of Canada, and at the same time telegraphed to his Excellency, informing him that I had received it; for, as this is the season when the produce of Canada is for the most part transported into the State of New York, I was aware that the Canadian Government would be anxious to be informed that the navigation of the canals of that State was open to Canadian vessels.

As far as I am able to judge, the terms of Mr. Fish's note are satisfactory, and Canadian vessels with cargoes may now proceed by Lake Champlain and the Whitehall and Erie Canals to Troy and Albany, or by the Erie Canal, entering either at Buffalo from Lake Erie, or at Oswego from Lake Ontario, to Albany and Troy. I hope, however, soon to receive from Lord Dufferin the acquiescence of the Canadian Government in the orders which have at length been given.

Inclosure in No. 35.

Mr. Fish to Sir E. Thornton.

Sir, *Department of State, Washington, June* 7, 1876.

REFERRING to previous correspondence upon the subject of the navigation of the canals of the United States by Canadian vessels, under Article XXVII of the Treaty of Washington, I have now the honour to inform you that I am informed by the Secretary of the Treasury that instructions have been issued to the Collector of Customs at Plattsburgh, New York, to allow Canadian barges and other vessels laden with imported goods to pass that port, on a clearance to Albany, or to any port intermediate between Plattsburgh and Albany, under such conditions and regulations as would govern the navigation of American barges or vessels coming from Canada, under section 3,102 of the Revised Statutes, or under such regulations as would apply

to foreign vessels generally when importing foreign cargoes, under section 4,347 of the Revised Statutes, but without regard to the several provisions in this section which apply especially to imported goods transported in bond. I am further informed that the Collector has been instructed to allow free transit to all return cargoes shown by the manifests of Canadian vessels to be destined for Canada.

It is further stated that instructions, similar in tenour and object to those addressed to the Collector at Plattsburgh, will be given to the Collector of Customs at Buffalo and Oswego, New York, and Burlington, Vermont, and that the Surveyor of Customs at Albany, and the Deputy-Collector at Troy, New York, will be notified of these orders.

I have, &c.
(Signed) HAMILTON FISH.

No. 36.

Mr. Malcolm to Lord Tenterden.—(*Received July* 11.)

(Extract.) *Downing Street, July* 11, 1876.

WITH reference to previous correspondence relating to the navigation of United States canals by Canadian vessels, I am directed by the Earl of Carnarvon to transmit to you, for the information of the Earl of Derby, a copy of a despatch received on the 28th ultimo from the Governor-General of Canada, together with such of its inclosures as are not already in the possession of the Foreign Office.

Inclosure 1 in No. 36.

The Earl of Dufferin to the Earl of Carnarvon.

My Lord, *Government House, Ottawa, June* 13, 1876.

REFERRING to my despatch No. 92, April 6, and to previous correspondence relating to the navigation of United States' Canals by Canadian vessels under the Treaty of Washington, I have the honour to transmit herewith, for your Lordship's information, copies of further communications and inclosures which I have received from Her Majesty's Minister at Washington on this subject.

Your Lordship will observe, from the inclosure in Sir E. Thornton's last despatch, that Mr. Fish states that he has been informed by the Secretary of the Treasury that instructions have been issued by the United States' Customs' authorities to permit the free navigation of the canals of the State of New York to Canadian vessels on the same terms and conditions as are accorded to United States' vessels.

I have, &c.
(Signed) DUFFERIN.

Inclosure 2 in No. 36.

Sir E. Thornton to the Earl of Dufferin.

My Lord, *Washington, April* 10, 1876.

WITH reference to your Excellency's despatch of the 8th instant, I have the honour to inform you that about a month ago I called Mr. Fish's attention to the Act of Congress of September 26th, 1850, which empowers the Secretary of the Treasury to allow vessels laden with the products of Canada, &c., to lade or unlade at any port or place within any collection district which he may designate.

After consideration of this Act, I understand from Mr. Fish that he addressed a letter to the Secretary of the Treasury, suggesting to him to avail himself of the power granted by it, and to designate Albany and Troy as two places at which vessels coming from Canada might discharge cargo.

On the 6th instant I asked Mr. Fish whether he had received any answer to the above communication. He replied in the negative. Mr. Bristow is now absent from Washington in Kentucky.

I have, &c.
(Signed) EDWD. THORNTON.

30

Inclosure 3 in No. 36.

Sir E. Thornton to the Earl of Dufferin.

My Lord, *Washington, May* 4, 1876.

I HAVE the honour to inclose, for your Excellency's information, copy of a note and of its inclosure, which I received this morning from Mr. Fish, and of my answer to that note.

I shall of course communicate to your Excellency Mr. Fish's reply as soon as I shall receive it.

I have, &c.
(Signed) EDWD. THORNTON.

Inclosure 4 in No. 36.

Sir E. Thornton to the Earl of Dufferin.

(Extract.) *Washington, June* 8, 1876.

I HAVE the honour to inclose copy of a note which I have received from Mr. Fish, with regard to the navigation of the Canals in the State of New York by Canadian vessels.

NORTH AMERICA. No. 7 (1876).

CORRESPONDENCE respecting the Imposition of Duty by the United States' Authorities on Tin Cans containing Fish from Canada.

Presented to both Houses of Parliament by Command of Her Majesty. 1876.

LONDON:
PRINTED BY HARRISON AND SONS.

CANADA.

REPORT

OF A

COMMITTEE of the PRIVY COUNCIL OF THE DOMINION OF CANADA relating to the RETURNS on the subject of EXTRADITION. With LORD CARNARVON'S REPLY.

(*In continuation of* [C.—1621.] August 1876.)

Presented to both Houses of Parliament by Command of Her Majesty.
February 1877.

No. 1.

The EARL OF DUFFERIN, K.P., K.C.B., to the EARL OF CARNARVON.
(Received December 21st, 1876).

MY LORD, Government House, Ottawa, December 4, 1876.

I HAVE the honour to transmit herewith a copy of an approved report of Council embodying a memorandum by the Minister of Justice referring to certain Parliamentary papers comprising a return of cases of extradition of prisoners which have occurred under a treaty between Great Britain and the United States, copies of which accompanied your Lordship's despatch of the 8th ultimo marked Parliamentary.

I have, &c.
(Signed) DUFFERIN.

The Right Hon. the Earl of Carnarvon,
&c. &c. &c.

Enclosure in No. 1.

COPY of a REPORT of a COMMITTEE of the Honourable the PRIVY COUNCIL, approved by HIS EXCELLENCY the GOVERNOR-GENERAL on the 27th of November 1876.

THE Committee have had under consideration a memorandum dated 23rd November 1876, from the Honourable the Minister of Justice, reporting that the Right Honourable the Secretary of State for the Colonies has transmitted to your Excellency certain Parliamentary papers comprising a return "of all cases of extradition of "prisoners which have occurred under a treaty between Great Britain and the United "States, showing, in the case of prisoners surrendered to Great Britain, the charges on "which the prisoner was demanded and those on which he was tried, and also stating "in each case whether any special stipulation beyond those contained in the treaty was "required or conceded by the Government of either country as a condition of the "surrender."

The Minister states that he thinks it right to call attention to the fact that the return, so far as the materials for it were supplied by the Government of Canada, is confined to the cases in which extradition actually took place, that being the meaning attributed here to the language of the address, but he observes that the return with reference to England embraces all the applications for extradition, whether successful or not.

He recommends that this circumstance should be pointed out to Lord Carnarvon with an intimation that in case Her Majesty's Government desire it, steps will be taken to procure as far as possible a statement of the unsuccessful applications for extradition affecting Canada and its provinces, though, the Minister adds, it is to be feared the information will be incomplete.

The Committee concur in the foregoing recommendation and submit the same for your Excellency's approval.

Certified,
W. A. HIMSWORTH.

40944.

[C.—1683.] *Price* ½*d.*

No. 2.

The EARL OF CARNARVON to the EARL OF DUFFERIN, K.P., K.C.B.

My Lord, Downing Street, Jan. 15, 1877.

I have the honour to acknowledge the receipt of your Lordship's despatch of the 4th of December* enclosing a report of a Committee of the Privy Council relating to the returns received from Canada upon the subject of extradition which were presented to Parliament in August last with your despatch of the 24th of July.†

Although the Canadian return is confined to cases in which extradition actually took place whilst fuller particulars have been given in the return relating to England, I do not think it is necessary that further papers should be presented in regard to Canada unless moved for in Parliament.

I shall, however, lay before Parliament your Lordship's despatch now under acknowledgment with its enclosure and this reply, in order that members of Parliament may be aware of the plan on which the Canadian return was prepared.

I have, &c.

The Earl of Dufferin. (Signed) CARNARVON.

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* No. 1. † Vide Command Paper, [C.—1621,] of Aug. 1876.

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MONASTIC AND CONVENTUAL INSTITUTIONS.

FURTHER RETURN to an Address of the Honourable The House of Commons, dated 27 July 1874;—*for*,

"COPIES and TRANSLATIONS of any LAWS, ORDINANCES, or REGULATIONS relating to MONASTIC and CONVENTUAL INSTITUTIONS connected with the Church of *Rome*, and to the INMATES or MEMBERS thereof, especially to the regular ORDERS of the Church of *Rome*, which may be enforced by the authority of the State, and are at present operative in *France*, in the *German* Empire, in the *Austro-Hungarian* Empire, in the *Russian* Empire, in *Italy*, in *Sweden* and *Norway*, in *Belgium*, in *Spain*, in *Portugal*, in *Switzerland*, in the United States of *America*, in the Dominion of *Canada*, and in the Empire of *Brazil*"—(in continuation of Parliamentary Paper [c. 1165.] of 1875).

[So far as regards the DOMINION of CANADA.]

(*Mr. Newdegate.*)

Ordered, by The House of Commons, *to be Printed*,
2 *August* 1877.

TABLE OF CONTENTS.

Serial Number.	From or to whom.	Date.	Subject.	Page.
1	To the Earl of Dufferin -	3 March 1875 -	Transmitting an Address of the House of Commons relating to Monastic and Conventual Institutions, and requesting that steps may be taken for procuring the necessary information so far as it relates to the Dominion of Canada.	3
2	The Earl of Dufferin -	29 December - (Rec. 13 Jan. 1876.)	Inclosing a Report of a Committee of the Privy Council, to which is annexed a Memorandum of the Minister of Justice, recommending that the Lieutenant Governors of each Province be requested to comply with the requirements of the Address.	3
3	Ditto - - - -	16 April 1877 - (Rec. 3 May 1877.)	Forwarding two letters from the Secretary of State for Canada, transmitting communications from the Lieutenant Governors of the several Provinces, furnishing the necessary information relating to Monastic and Conventual Institutions.	4

FURTHER RETURN relating to the LAWS, ORDINANCES, and REGULATIONS relative to the MONASTIC and CONVENTUAL INSTITUTIONS in various FOREIGN COUNTRIES, &c.

CANADA.

No. 1.

The Earl of *Carnarvon* to the Earl of *Dufferin*.

My Lord, Downing-street, 3 March 1875.

I HAVE the honour to transmit to you the enclosed Address to Her Majesty, adopted by the House of Commons during the last Session of Parliament, relating to Monastic and Conventual Institutions connected with the Church of Rome; and I have to request that your Lordship will take such steps as may be necessary to obtain the information called for in the Address so far as it relates to the Dominion of Canada.

Address (Monastic and Conventual Institutions), House of Commons, Session 1874, 27th July.

I have, &c.

The Earl of Dufferin. (signed) *Carnarvon.*

No. 2.

The Earl of *Dufferin* to the Earl of *Carnarvon*.

(Received 13 January 1876.)

Government House, Ottawa,

My Lord, 29 December 1875.

WITH reference to your Lordship's Despatch of the 3rd March 1875* transmitting a copy of an Address adopted by the House of Commons relating to Monastic and Conventual Institutions connected with the Church of Rome, and requesting that steps may be taken to obtain the information called for as far as it relates to Canada—

I have the honour of enclosing a copy of a Report of a Committee of the Privy Council, to which is annexed a copy of a Memorandum by the Minister of Justice, stating that the information asked for is not within the possession of the Government of Canada, and recommending that the Lieutenant Governor of each province of the Dominion be requested to comply with the requirements of the Address of the House of Commons as far as it relates to his province.

27th Dec. 1875.

Immediately on the receipt of the information from the Lieutenant Governors I shall not fail to communicate it to your Lordship.

I have, &c.

(signed) *Dufferin.*

The Right Hon. the Earl of Carnarvon,
&c. &c. &c.

* No. 1.

COPY of a REPORT of a Committee of the Honourable the Privy Council approved by his Excellency the Governor General on the 27th December 1875.

THE Committee of Council have had under consideration a Despatch from the Right Honourable the Secretary of State for the Colonies, dated 3rd March 1875, transmitting an Address to Her Majesty adopted by the House of Commons, whereby Her Majesty was asked " to give directions that there be laid " before this House copies and translations of any laws, ordinances, or regula- " tions relating to Monastic and Conventual Institutions connected with the " Church of Rome, and to the inmates or members thereof, especially the " regular Orders of the Church of Rome, which may be enforced by the " authority of the State and are at present operative in * * * " the Dominion of Canada."

This Despatch, with Address, having been referred to the Honourable the Minister of Justice, he submits a Report, which is hereunto annexed.

The Committee concur in said Report, and advise that the same be approved and acted on.

Certified,
W. A. Himsworth,
Clerk, Privy Council.

Department of Justice, Ottawa,
23 December 1875.

WITH reference to a Despatch from the Secretary of State for the Colonies to his Excellency, dated 3rd March 1875, transmitting an Address of Her Majesty adopted by the House of Commons, whereby Her Majesty was asked " to give directions that there be laid before this House copies and translations " of any laws, ordinances, or regulations relating to Monastic and Conventual " Institutions connected with the Church of Rome, and to the inmates or " members thereof, especially the regular Orders of the Church of Rome, " which may be enforced by the authority of the State, and are at present " operative in France, in the German Empire, in the Austro-Hungarian " Empire, in the Russian Empire, in Italy, in Sweden and Norway, in Belgium, " in Spain, in Portugal, in Switzerland, in the United States of America, in the " Dominion of Canada, and in the Empire of Brazil," and requesting " that his " Excellency would take such steps as may be necessary to obtain the informa- " tion called for in the Address so far as it relates to the Dominion of Canada," the undersigned begs to report:—

That the information asked for is not within the possession of the Government of Canada, and that the best mode of procuring it would appear to be by requesting the Lieutenant Governor of each province to obtain and transmit to his Excellency, in compliance with the Despatch, the information so far as it relates to his province.

He recommends, therefore, that communication should be had with the several Lieutenant Governors in this sense, accompanied by a copy of the Despatch of the Secretary of State, and its enclosure.

He recommends further, that the Secretary of State be informed of the substance of this Report, and the action taken thereon.

(signed) *Edward Blake,*
M. J.

No. 3.

The Earl of *Dufferin* to the Earl of *Carnarvon*.

(Received 3 May 1877.)

Government House, Ottawa,
16 April 1877.

My Lord,

With reference to the Despatches noted in the margin,* I have the honour to transmit herewith copies of two letters from the Secretary of State for Canada, covering copies of communications from the Lieutenant Governors of the several provinces of the Dominion, furnishing the information called for by an Address of the Imperial House of Commons relating to Monastic and Conventual Institutions connected with the Church of Rome.

I have, &c.
(signed) *Dufferin.*

The Right Hon. the Earl of Carnarvon,
&c. &c. &c.

Department of the Secretary of State to the Governor General's Secretary.

Sir,

Ottawa, 31 March 1877.

Adverting to the Despatch of the Right Honourable the Secretary of State for the Colonies, of the 3rd March 1875, I am directed to acquaint you, for the information of his Excellency the Governor General, that the information asked for in the Address of the Imperial House of Commons, a copy of which accompanied his Lordship's Despatch, not being within the possession of the Government of Canada, the Lieutenant Governor of each province of the Dominion was requested to obtain and transmit to his Excellency, in compliance with the Despatch, the information so far as it related to his province.

I am now directed to transmit to you, for the information of his Excellency, the communications on the subject which have been received from the Lieutenant Governors of all the provinces of the Dominion, with the exception of that of Ontario.

With regard to this latter province, I am to state that, although repeatedly requested to do so, that Government has hitherto neglected to supply the information asked for.

I have, &c.
(signed) *Edouard Langevin,*
Under Secretary of State.

Lieut. Col. the Hon.
E. G. P. Littleton,
Governor General's Secretary.

The Lieutenant Governor, New Brunswick, to the Hon. the Secretary of State, Canada.

Government House, Fredericton,
10 January 1876.

Sir,

I have the honour to acknowledge the receipt of your Despatch of 31st December, together with a copy of a Despatch from the Right Honourable the Secretary of State for the Colonies, requesting certain information relating to Monastic and Conventual Institutions connected with the Church of Rome in this province.

In compliance with your request, I have to inform you that we have no regular religious Orders in New Brunswick, and that all the laws, ordinances, and regulations of our Orders are merely internal, having no relation whatever directly to the authority of the State.

All the religious orders in New Brunswick, with the exception of the Sisters of

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* Nos. 1 and 2.

of Charity, are simply branches from their respective Mother Houses in Canada, in whose report relative to the said Address full information will probably be found.

The conventual Orders of New Brunswick are as follow:—

Sacred Heart, St. John, Mother House Sault au Acolet, Montreal.

Sisters of the Holy Cross, Madawaska and Memramcook, Mother House St. Lawrence, Montreal.

Sisters of the , Newcastle, Mother House Montreal.

Sisters of the Hôtel Dieu, Loretto, Gloucester County, Mother House Montreal.

The monastic Orders are the Holy Cross, St. Joseph's, Memramcook, Westmoreland, Mother House St. Lawrence, Montreal.

The Christian Brothers, St. John, Mother House Montreal.

The Order of the Holy Cross was, I believe, incorporated two years ago, but the Act of Incorporation merely authorises them to hold property in their name.

The Sisters of Charity are a native institution, whose only regulations are the rules by which their respective houses are managed, which are renewed every year.

I have, &c.
(signed) *S. L. Tilley.*

Lieutenant Governor, Prince Edward Island, to the Secretary of State, Canada.

Province of Prince Edward Island,
Sir, Government House, 10 January 1876.

I HAVE the honour to acknowledge the receipt of your Despatch of the 31st ultimo, transmitting a copy of a Despatch from the Right Honourable the Secretary of State for the Colonies, and of the Address to Her Majesty by the House of Commons therein referred to, and requesting me, in accordance with Lord Carnarvon's desire, to obtain the information called for in the Address, so far as it relates to this province, and in reply I beg to acquaint you that there are no laws, ordinances, or regulations relating to Monastic and Conventual Institutions connected with the Church of Rome, and to the inmates or members thereof, especially the regular Orders of the Church of Rome, which may be enforced by the authority of the State at present operative in this province.

I have, &c.
(signed) *R. Hodgson.*

Lieutenant Governor, Manitoba, to the Secretary of State, Canada.

Government House, Fort Garry, Manitoba,
Sir, 12 January 1876.

I HAVE the honour to acknowledge the receipt of your Despatch of the 31st December last, and in reply have to inform you that the laws in force in this province relating to property and civil rights are those which prevailed in England on the 15th day of July 1870, so far as the same can be made applicable thereto.

I have further to state that there are no laws of the late Province of Assinitoia or of the present Province of Manitoba, which includes the former Assinitoia, relating to Monastic or Conventual Institutions connected with the Church of Rome.

I have, &c.
(signed) *Alex. Morris.*

The Lieutenant Governor, Nova Scotia, to the Secretary of State, Canada.

Government House, Halifax, Nova Scotia,
Sir, 24 January 1876.

I HAVE the honour to acknowledge the receipt of your Despatch under date of the 31st ultimo, transmitting me a copy of a Despatch from the Right Honourable the Secretary of State for the Colonies, and of the Address to Her Majesty adopted by the House of Commons referred to, and requesting certain information on the matter referred to in the Address, and in reply I beg to state, for the information of the Earl of Carnarvon, that there are no laws in force in this province relating to Monastic or Conventual Institutions connected with the Church of Rome, or to the inmates or members thereof, which can be enforced by order of the State, other than so far as the common law of England is applicable thereto.

I have, &c.
(signed) *Adams G. Archibald,*
Lieutenant Governor.

Lieutenant Governor, British Columbia, to Secretary of State, Canada.

British Columbia, Government House,
Sir, 3 March 1876.

WITH reference to your Despatch of the 31st December last, received by me on the 21st January, with enclosed copy of a Despatch from the Right Honourable the Secretary of State for the Colonies, and of the Address therein referred to from the House of Commons to Her Majesty, I have the honour to acquaint you that, in accordance with the request conveyed in your Despatch that I should take steps to obtain the information called for in that Address, as far as it relates to this province:—

I referred your Despatch and its Enclosures to the Honourable the Attorney General, for a Report, and received to-day from that minister the letter and Return, a copy of which I now transmit herewith, showing that there has not been any legislation in British Columbia on the subject to which the Address relates; that is to say, as to Monastic and Conventual Institutions connected with the Church of Rome.

I have, &e.
(signed) *Joseph W. Trutch.*

The Attorney General of British Columbia to His Honour the Lieutenant Governor.

British Columbia, Attorney General's Office,
Sir, 2 March 1876.

WITH reference to a copy of a Despatch from the Secretary of State for Canada, covering one from Lord Carnarvon, calling, in answer to an Address from the House of Commons, for copies of laws, &c. relating to Monastic and Conventual Institutions which might be in force in British Columbia, which Despatch was referred to me for report, I have the honour to acquaint your Excellency that no laws, &c. have ever been passed on this subject in British Columbia. I have therefore forwarded herewith a Return to that effect.

I have, &c.
(signed) *A. C. Elliott.*

RETURN of all Laws, Ordinances, or Regulations in force in British Columbia relating to Monastic and Conventual Institutions connected with the Church of Rome, and to the Inmates or Members thereof, &c., &c., &c.

Nil.

(signed) *A. C. Elliott*,
Attorney General.

Victoria, British Columbia,
2 March 1876.

The Lieutenant Governor, Quebec, to the Secretary of State Canada.

Hôtel du Gouvernement, Québec,
Decembre 1876.

Monsieur,

REFERANT à votre dépêche en date du 21 Decembre 1875 (2511 on 1309), j'ai l'honneur de vous transmettre sous ce pli pour l'information du très Honorable Secrétaire d'Etat pour les Colonies, un mémoire contenant les renseignements demandés par une Addresse à Sa Majesté la Reine adoptée par la Chambre des Communes, au sujet des Institutions Monastiques et Religieuses de la Province de Québec en rapport avec l'Eglise de Rome.

J'ai l'honneur, &c.
(signed) *L. Lettellier*,
Lieutenant Governor.

NOTES sur les Lois de l'Etat Civil concernant les Communautés et Ordres Religieux Catholiques Romains dans la Province de Québec.

LES communautés religieuses de la Province de Québec, en tant que communautés, jouissent de tous les droits et priviléges reconnus ou conférés aux corporations séculières.

De plus, les propriétés qu'elles occupent pour les fins de leur ordre, respectivement (écoles, hôpitaux, &c.), sont exemptes de toutes taxes municipales.

La charge ou acte d'incorporation de chacune des villes de la province comporte cette exemption de taxe municipale en faveur des communautés religieuses. Quant aux communautés établies dans les municipalités rurales, les propriétés dont elles font usage pour les fins de leur ordre sont déclarées biens non-imposables par un article spécial due code. (Voir Code Municpal, Art. 712, sec. 3.)

Chaque membre de ces communautés est en possession de tous les droits et privilèges dont jouissent les autres sujets de Sa Majesté dans cette province, à l'exception toutefois des religieuses de l'Hôtel-Dieu, de l'Hôpital-Général, et du monastère des Ursulines de Québec, du monastère des Ursulines des Trois-Rivières et de l'Hôtel-Dieu de Montréal, qui étant entrées volontairement dans une " communauté religieuse reconnue lors de la cession du Canada à l'Angle-" terre," et y ayant fait des " vœux *solennels* et *perpétuels*," se sont, par le fait, dépouillées de leurs droits civils. (Voir Code Civil du Bas-Canada, Art. 34 : la loi demeurée en vigueur, en France, jusqu'en 1789, et les commentateurs de l'ancien droit français.)

Cependant, si ces religieuses sont ainsi mortes civilement, les communautés dont elles font partie possèdent, elles-mêmes, tous les droits et priviléges des autres communautés religieuses et des corporations séculières de la province. Ainsi toutes ces personnes mortes civilement ont cependant droit de " contracter par l'intermédiaire et au nom de celles des religieuses qui sont les administratrices ou préposées de l'ordre, comme elles peuvent, au même nom, ester en judgement. En un mot, les religieuses qui composent l'orde sont, individuellement, mortes civilement, mais l'ordre lui-même jouit de la vie civile.

Dans toute communauté religieuse où il est permis de faire profession par vœux *solennels* et *perpétuels*, il est tenu deux registres de même teneur pour y insérer les actes constatant l'émission de tels vœux.

Les

Les actes font mention des noms et prénoms et de l'âge de la personne qui fait profession, du lieu de sa naissance, et des noms et prénoms de ses père et mère. Ils sont signés par la partie elle même, par la supérieure de la communauté, par l'évêque ou autre ecclésiastique qui fait la cérémonie, et par deux des plus proches parents ou par deux amis qui y ont assisté.

Les registres durent pendant cinq années, après lesquelles l'un des doubles est disposé au greffe de la Cour Supérieure du District qu'il appartient, et l'autre reste dans la communauté pour faire partie de ses archives. (Voir *Code Civil du Bas-Canada*, Art. 70, 71, 72, 73, et 74. Voir aussi Ordonnance de 1667, Art. 16 & 20 ; Déclaration de 1736, Art. 8, 25, 27, 28, & 29.)

Notes Supplémentaires.

L'article 34 du *Code Civil du Bas-Canada* se lit comme suit :—

" *Les incapacités* résultant, quant aux personnes qui professent la religion Catholique. de la profession religieuse par l'émission de vœux solennels et à perpétuité dans une communauté religieuse reconnue lors de la cession du Canada à l'Angleterre et approuvée depuis, *restent soumises* aux lois qui les réglaient à cette epoque."

L'article XXXII. de la Capitulation de Montréal (3 Septembre 1760) porte que " les communautés de filles seront *continuées dans leurs constitutions et " priviléges* " et qu' " elles continueront d'observer leurs règles." Il y est dit aussi que " il sera fait *défense de les troubler* dans les exercices de piété qu'elles " pratiquent, *ni d'entrer chez elles*," &c., &c.

A l'époque de la cession du Canada à l'Angleterre les " communautés de " filles " établies dans la province étaient la Congrégation de Notre Dame, l'Hôpital Général et l'Hôtel-Dieu de Montréal, les Ursulines des Trois Rivières, les Ursulines, l'Hôtel-Dieu, et l'Hôpital-Général de Québec.

Les religieuses des deux premières de ces communautés ne prononcent que des *vœux simples*, et retiennent la vie civile. Les lettres-patentes accordées par Louis XV. aux Sœurs de l'Hôpital-Général (Sœurs Grises) de Montréal, portent expressément (article 12), " que les hospitalières pourront jouir de leurs biens " patrimoniaux, dont elles conserveront la propriété, *comme les personnes séculières* " qui sont dans le monde, sous la réserve cependant que leurs héritiers ne " succéderont aux biens mobiliers qui seront à l'hôpital, appartenant à celles qui " mourront au service des pauvres, que dans le cas où elles en disposeraient " en leur faveur." La Congrégation Notre Dame, érigée en communauté au mois de Mai 1671, par lettres-patentes du Roi de France (Louis XIV.) fut confirmée par Mgo. de Laval (6 Avril 1676), mais en " Congrégation de filles " seculières " seulement.

Les religieuse de l'Hôtel-Dieu de Montréal, des Ursulines des Trois Rivières, des Ursulines de l'Hôtel-Dieu, et de l'Hôpital Général, de Québec, étaient les seules religieuses qui, à l'époque de la cession du Canada à l'Angleterre, prononcaient les vœux solennels et perpétuels qui entraînent la mort civile. (Voir historique de ces communautés : Loranger, *Commentaires sur le Code Civil du Bas-Canada*, tome I. ; voir aussi le *Rapport* des auteurs du *Code Civil du Bas-Canada*, livre premier, art. 20.)

Il reste maintenant à examiner, premièrement, dans quelles conditions doivent être prononcés ces vœux solennels dont parle le code ; deuxièmement, quelles étaient les dispositions de l'ancien droit français, sur le mort civile qui en découle; troisièmement, si les communautés de religieuses mortes civilement peuvent acquérir des biens, et jusqu'à quel montant.

I. Les vœux solennels exigent les conditions suivantes : 1°. Ils doivent être reçus par un supérieur qui en ait le pouvoir d'après la constitution de l'ordre ; 2°. Celui ou celle qui les prononce doit avoir seize ans révolus (Ordonnance de Blois, 1559) ; 3° La profession doit être volontaire, exempte d'erreur, de violence, de crainte, de dol, &c., &c.

Ces conditions sont aussi celles du Concile de Trente.

De plus, d'apres l'ancien droit français, ces vœux devaient être prononcés dans une communauté approuvée par l'Elise et par l'Etat. (Les communautés dont nous avons parlé plus haut existaient dans ces conditions.)

 II. La

II. La religieuse morte civilement est assujettie à la plupart des incapacités énumérées dans l'article 36 du Code Civil. Quant aux causes légales des incapacités monastiques, elles ce trouvent dans les trois vœux que prononce la religieuse : vœux de chasteté, de pauvreté, et d'obéissance.

Par le vœu de chasteté, elle renonce au mariage, et aux immunités comme aux obligations qui en découlent. Par le vœu de pauvreté, elle renonce à tous les biens qu'elle ne peut plus posséder, acquérir, ou aliéner. Ne pouvant plus posséder de biens, ceux qu'elle avait, lors de sa profession, *vont à ceux qui seraient ses héritiers légitimes* ou *testamentaires, si l'instant de sa mort au monde était celui de sa mort naturelle*, et à titre de succession active, elle ne peut rien acquérir par la suite. Dans les successions qui s'ouvrent, son dégré est vacant, et elles échoient à ceux qui, si elle n'était pas morte civilement, viendraient en concours avec elle, ou qui hériteraient à son défaut si elle était morte naturellement.

" N'ayant plus rien dont elle puisse disposer, ni acquérir à aucun titre, les contrats qui ont rapport aux biens lui sont interdits. Elle ne peut plus procéder en justice, ni en demandant *ni en défendant*, parceque tout procès suppose un interêt mondain et séculier, et qu'elle a renoncé au monde et au siècle.

" Elle ne peut être témoin en justice.

" Elle ne peut être ni tutrice ni curatrice.

" Il est toutefois bien entendu que ces prohibitions, qui s'attachent à la religieuse individuellement, *ne s'appliquent pas a l'ordre ou au couvent*, et que dans les limites de leur charte de fondation et de leurs lettres d'amortissement, les communautés *peuvent posséder et contracter*, ester en jugement, et, comme les particuliers, faire tous actes nécessaires à l'administration et à la conservation de leurs biens." (Loranger, *Commentaire sur le Code Civil, tome I.*)

III. " Par leurs lettres patentes d'établissement, l'Hôtel-Dieu de Québec et de Montréal, les Ursulines de Québec et des Trois-Rivières, et l'Hôpital Général de Québec ont reçu l'autorisation d'acquérir et de posséder à tous les titres tous biens quelconques, soit en fief, soit en censive, et toutes rentes quelconques, et de recevoir à tous titres gratuits, même par donation à cause de mort et testaments, tous dons quelconques.

" Cette faculté d'acqérir des biens nouveaux a duré jusqu'en 1743, où fut donnée la déclaration du roi concernant les ordres religieux et gens de main-morte établis aux Colonies Francaises. Déclaration connue au palais sous le nom d' ' édit des mains-mortes.'

" Cet édit fait défense aux communautés religieuses d'acquérir, sans permission royale, de nouveaux biens immobiliers, et prohibe absolument tous avantages faits en leur faveur par dispositions de dernière volonté.

" En dehors de ces prohibitions, qui ne se rattachent cependant pas à leur capacité civile, mais à la quantité de biens qu'il leur est permis de posséder, les communautés que nous venons de nommer ont, comme les corporations séculières, la jouissance de leurs droits civils." (Idem.)

Tel est l'ancien droit français ; telles étaient " les lois qui réglaient les " incapacités " dont parle l'article 34 de notre Code Civil. Toutefois, afin de seconder les communautés dont nous nous occupons dans leurs œuvres si éminemment utiles, le gouvernement de la province du Canada (en 1845 et en 1849) a accordé à la plupart d'entre elles des pouvoirs supplémentaires, qui leur permettent " d'acquérir et de recevoir, par donations, legs ou autrement " (par dispositions de dernière volonté conséquemment), une plus grande quantité de biens que ne comportaient leurs Lettres Patentes *d'etablissement ;* et cela, " nonobstant toutes choses à ce contraire dans les lois communément appelées lois de main-morte, ou dans toute autre loi que ce soit."

(Voir l'acte intitulé " Acte pour autoriser les religieuses du Couvent des Ursu- " lines des Trois Rivières à acquérir et posséder des biens de fonds et immeubles " en sus de ceux qu'elles possèdent déja." Statuts du Canada, 8 Victoria, chapter 103, et les Actes concernant les Sœurs Hospitalières de St. Joseph, de l'Hôtel Dieu, de Montréal, les Ursulines de Québec, et les religieuses de l'Hôpital-Général de Québec. Statuts du Canada, 12 Victoria, chapter 139, 140, et 141).

Le

Le chiffre total exact des personnes mortes civilement par profession religieuse, dans la province de Québec, est de 338, savoir :—

Ursulines de Québec - - - - - -	84
Hôtel-Dieu de Québec - - - - - -	58
Hôpital-Général de Québec - - - - -	64
Ursulines des Trois Rivières - - - - -	55
Hôtel-Dieu de Montréal - - - - - -	77
Total - - -	338

Les autres personnes appartenant à des communautés religieuses d'hommes ou de femmes, mais ayant conservé tous les droits de la vie civile, sont au nombre d'environ 4,000. Voir le tableau ci-joint.

Nota.—Dans le tableau qui va suivre, les ordres religieux approuvés et reconnus à Rome sont indiqués comme réguliers; les communautés ou ordres qui ne relèvent que des évêques diocésains sont appelés séculiers.

NOMS des Communautés Religieuses de la Province de Québec ; Actes d'incorporation, &c., &c. ; Diocèses de Québec, de Montréal, de Trois-Rivières, d'Outawa, de St. Hyacinthe, de Rimouski, et de Serbrooke.

ARCHIDIOCÈSE DE QUÉBEC.

L'Universite Laval. Administrée par S. G. Mgr. l'Archevêque et par le Séminaire de Québec. Charte royale accordée par Sa Majesté le 8 Décembre 1852. (Pas de charte provinciale.) Theologie, droit, médecine, sciences, et arts. — 9 prêtes agrégés séculiers, 13 professeurs laïques.

Séminaire des Missions étrangères (Séminaire de Québec). Edits et Ordonnances, édition 1855, pages 33, 34, 35, 79, 80, 84, 269, et 270, Vol. I. ; page 58, Vol. II. ; et page 410, Vol. III. ; 7 Victoria, chap. 55. Petit Séminaire. Etudes classiques. — 22 agrégés & auxiliaires, prêtres séculiers.

RR. PP. Jésuites. "Missionnaires de Notre Dame, S. J." 35 Victoria, chap. 46. — 4 pères, 2 frères, religieux réguliers.

Les RR. PP. Oblats de l'Immaculée-Conception, de la communauté de Montréal. 12 Victoria, ch. 143 ; 38 Victoria, chap. 51. Missionnaires. — 3 religieux réguliers, 2 frères.

Les RR. PP. Rédemptoristes. Ne possèdent rien, mais desservent et administrent l'Eglise St. Patrice de Québec. Corporation de l'église St. Patrice. 13 et 14 Victoria, chap 125, 18 Victoria, ch. 228, et 38 Victoria, chap. 30. — 5 religieux réguliers.

Les Sœurs de la Congrégation Notre Dame. Maison mère à Montréal ; plusieurs succursales dans l'archidiocèse. Edits et Ordonnances, édition 1855, page 69, Vol. I., et 268, Vol. II. ; 8 Victoria, chap. 99. — 90 religieuses séculières.

Religieuses de l'Hôpital Général de Québec. Edits et Ordonnances, édition 1855, pages 271, 336, 403, 404, 497, 499, et 553, Vol. I., et page 404, Vol. II. ; 12 Victoria, ch. 140. — 64 cloîtrées régulières

Asile du Bon Pasteur de Québec. Plusieurs succursales. 18 Victoria, chap. 233 ; 27 & 28 Victoria, chap. 149. — 145 séculières.

Corporation du Collége de Ste. Anne de Lapocatière. 4 Guillaume IV., chap. 35 , 25 Victoria, chap. 78. — 12 agrégés & auxiliaires, prêtres séculiers.

Reigieuses de l'Hôtel-Dieu (Québec). Edits et Ordonnances, édition 1855, page 244, Vol. I., et pages 22 et 483 du Vol. II. Aucun acte d'incorporation provincial. — 58 cloîtrées régulières.

Ursulines de Québec. 12 Victoria, chap. 141. Voyez "Notes Supplémentaires" (enseignement). — 84 cloîtrées régulières.

Les Sœurs de la Charité de Québec. 16 Victoria, ch. 264, 25 Victoria, ch. 90. Soins des malades et des orphelins. — 150 séculières.

59 réguliers. *Les Frères de la Doctrine Chrétienne.* Ne possèdent rien. Missions à Ste. Marie de la Beauce, à l'islet, et à St. Thomas de Montmagny. La maison qu'ils occupent à Québec est la propriété de la Société d'Education du District de Québec (Voir 9 Victoria, ch. 50).

13 cloîtrées régulières. *Religieuses de l'Hôpital du Sacré Cœur de Jésus.* 37 Victoria, ch 38.

92 séculières. *Les dames religieuses de Jésus-Marie.* Noviciat à Sillery. Plusieurs succursales. 24 Vict. ch. 118. Enseignement.

5 prêtres séculiers. *Collége de Lévis.* 38 Vict. ch. 49. Collége Commercial.

Diocèse de Montréal.

56 prêtres séculiers. *Les Ecclésiastiques du Séminaire de St. Sulpice.* 3 & 4 Vict. chap. 30, 8 Vict. ch. 42, 18 Vict. ch. 3. Desservant les paroisses de Notre Dame, de St. Patrice, de St. Jacques, de St. Joseph, et de Ste Anne, à Montréal, la paroisse de l'Annonciation, au Lac des Deux Montagnes. Ils dirigent le grand Séminaire diocesain et le Collége de Montréal (études classiques).

Religieux réguliers : 28 pères 49 frères profès. *Les RR. PP. Jésuites.* Corporation du Collége Ste. Marie, 16 Vict. ch. 57, 36 Vict. ch. 64. La maison St. Joseph du Sault-au-Récollet, 32 Vict. ch. 78 (études classiques, noviciat).

Prêtres séculiers 12, dont 8 agrégés. *La Corporation du Petit Séminaire de Ste. Thérèse.* 8 Victoria, chap. 100 (études classiques).

Prêtres séculiers 10 (aucun agrégés). *La Corporation du Collége de l'Assomption.* 4 & 5 Victoria, chap. 68 (études classiques).

Réguliers : 115 agrégés, 37 novices. *Les Clercs paroissiaux, ou Catéchistes de St. Viateur.* Maisons à Joliette et a Rigaud (colléges classiques) à Verchères, Boucherville, Laprairie, Berthier, St. Roch, St. Thimothé, St. Vincent de Paul, St. André, St. Eustache, L'Enfant Jésus de la Pointe aux Trembles (écoles commerciales). 12 Vict. c. 144. Ils dirigent aussi l'Institution catholique des Sourds-Muets (paroisse de l'Enfant Jésus, près Montréal). 37 Vict. c. 39.

Réguliers : 51 prêtres, 6 scholastiques profès, 22 scholastiques novices, 9 frères convers à vœux perpétuels, 24 frères convers à vœux simples. *Les RR. PP. Oblats de l'Immaculée Conception de Marie.* Missionnaires. Desservant l'Eglise St. Pierre à Montréal. Noviciat à Lachine. 12 Vict. c. 143; 38 Vict. c. 51.

106 réguliers. *La Congrégation de Ste. Croix.* (Prêtres et frères) Dirige le collége classique de St. Laurent, le collége de la Cote des Neiges, le collége industriel de St. Jérome. 12 Vict. c. 146 ; 25 Vict. c. 81. L'Acte d'Incorporation du collége N. D. de la Cote de Neiges a été passé à la dernière session (1875).

Réguliers : 59 profès. *Les Frères des Ecoles Chrétiennes.* Etablis dans le diocèse le 23 Dec. 1837 ; formés en corporation le 24 Dec. 1875. Nombreuses écoles dans Montréal. Maisons à St. Henri des Tanneries St. Jean d'Iberville, Beauharnois, Chambly, N. D. de Grâces Longueuil.

Régulières : 77 professes. *Les religieuses Sœurs Hospitalières de St Joseph de l'Hôtel-Dieu.* Edits et Ordonnances, édition 1855, p. 66, Vol. I. 12 Vict. c. 139.

Réguliers : 21 frères profès, 21 novices profès. *Les Frères de la Charité de St. Vincent de Paul.* (Soins des vieillards, malades et aliénes, éducation.) Ces frères dirigent la maison de réforme des " Jeunes " délinquants." 32 Vict. c. 77.

Séculières : 241 professes, 51 novices. *Les Sœurs de la Charité de l'Hôpital-Général, ou Sœurs Grises.* (Soins et sécours aux malades, aux infirmes, et aux orphelins.) Dirigent hôpitaux, salles d'asile, &c, dans Montréal, St. Benoit, Verennes, Beauharnois, Cote des Neiges, Chambly, St. Jean, ainsi que l'Institution des Jeunes Aveugles (Nazareth) à Montréal. Edits et Ordonnances, édition 1855, pages 389, 390, et 613, Vol. I.; et pages 269, 391, 404, 406. et 407, Vol. II. 9 Vict. c. 92, 16 Vict. c. 116, 22 Vict. c. 18, 31 Vict. c. 56.

Séculières : 332 sœurs professes, 76 novices, 28 agrégées. *Les Sœurs de l'Asile de la Providence.* (Visite des pauvres et des malades à domicile, visite des prisoniers, éducation des sourdes-muettes.) Elles dirigent le grand Asile des Aliénés, dit de St. Jean de Dieu, à la Longue Pointe (subventionné

tionné par le gouvernement), et ont des établissements à Laprairie, Joliette, St. Paul, Ste. Elizabeth, St. Henri de Mascouche, St. Vincent de Paul, St. Ignace du Coteau du Lac, L'Assomption, Lanoraie, L'Enfant Jésus du Coteau St. Louis. 4 & 5 Vict. c. 62, 34 Vict. c. 53.

Les Carmélites. Etablies à Hochealga près Montréal en 1875. (Vie contemplative.) — Régulières, 5.

Les Sœurs de N. D. de la Charité du Bon Pasteur. Soin des filles repenties. Direction de la Prison de Réforme des filles. Maison à St. Hubert. 9 Vict. c. 91. — Régulières : 108 religieuses, 2 tourrières 25 madelaines pénitentes.

Les Dame du Sacré Cœur. Education des jeunes filles. Maison à Montréal, maison principale au Sault-au-Recollet. 7 Vict. c. 54. — Régulières : 39 professes, 29 coadjutrices

Sœurs des Saints Noms de Jésus et de Marie. (Education) Hochelaga, (Noviciat) Longueuil, St. Lin, St. Thimothée, St. Clément de Beauharnois, Verchères, St. Roch de l'Achigan, St. Louis de Gonzague, Ste. Cécile de Salaberry, et St. Anicet. 8 Vict. c. 101. — Séculières : 328 professes, 28 novices.

La Communauté des Filles de Ste. Anne. (Education) Lachine. (Noviciat) Vaudreuil, St. Ambroise, Rawdon, St. Cuthbert, St. Cyprien, St. Rémi, Ste. Geneviève, St. Jacques de l'Achigan, St. Gabriel, St. Jérome, St. Michel Archange, St Polycarpe. 23 Vict. c. 136. — Séculières : 218 professes, 42 novices.

La communauté des Sœurs de Sainte Croix. (Instruction des jeunes filles.) Maison principale à St. Laurent, autres maisons à St. Martin, Ste. Scholastique, Varennes, St. Ligouri, St. Jacques de la ville de Montréal. 12 Vict. c. 137. — Séculières : 70 professes, 12 novices.

Les Sœurs de la Misericorde. (Hospice de la Maternité.) Asile aux femmes et filles tombées. Régéneration par le pénitence. 12 Vict. c. 138. — Séculières : 57 professes, 4 novices, 34 magdeleines, (60 agrégées).

Les religieuses du Précieux Sang. Etablies à Notre Dame de Gârce, près Montréal, en 1875. (Vie contemplative.) — Séculières : 7 sœurs de chœur, 1 converse, 3 novices.

Les Sœurs de la Congrégation N. D. de Montréal. (Instruction des jeunes filles.) Noviciat à Montréal. Etablissements à Villa Maria, près Montréal, et au Mont Ste. Marie dans la ville. Pensionnats à Joliette, St. Jean Dorchester, Boucheville, Laprairie, La Pointe Claire, Huntingdon, La Pointe aux Trembles, Berthier, L'Assomption, Terrebonne, Ste. Thérèse, L'Annonciation (Lac des Deux Montagnes), Chateauguay, et Chambly. Edits et Ordonnances, édition de 1855, page 69, Vol. I., et page 268, Vol. II. 8 Vict. c. 99. — Séculières : 593 professes, 67 novices.

Diocèse de St. Germain de Rimouski.

Les Missionnaires Oblats. A Betsiamits. (Voyez Montréal.) — 3 religieux réguliers.

Le Séminaire de St. Germain de Rimouski. 34 Vict. c. 47. Ecole de théologie et collége classique. — 6 prêtres séculiers.

Les Sœurs de la Congrégation Notre Dame. Maison à Rimouski. Education des jeunes filles. (Voyez Montréal.) — Séculières : 8 professes.

Les Carmélites déchaussées. 39 Vict. c. 84. (Vie contemplative.) — Régulières : 3 professes, 6 novices.

L'Hospice des Sœurs de Charité de Rimouski. 38 Vict. ch. 54. Maisons à Rimouski et à Cacouna. (Hôpitaux et écoles.) — Séculières : 18 professes, 8 novices.

Les Sœurs de Jésus-Marie, aux Trois Pistoles. Maison mères à Sillery, près Québec. Education des jeunes filles. — Séculières, 5.

Les Sœurs de Petites Ecoles des Pauvres. (Non encore incorporées.) — Séculières, 6.

Diocèse de Trois-Rivières.

Séminaire des Trois-Rivières. 23 Vict. ch. 133, 37 Vict. ch. 33. — 7 prêtres séculiers.

Le Séminaire de Nicolet, Lettres-Patentes de George IV. du 10 Décembre 1821. 22 Vict. c. 68. — 7 prêtres séculiers.

Frères de la Doctrine Chrétienne, aux Trois Rivières et à Yamachiche. Ne possèdent rien. Les établissement qu'ils occupent appartiennent aux municipalités scolaires. — 15 réguliers.

5 séculiers. *Les Frères du Sacré Cœur*, à St. Christophe.

55 cloîtrées régulières. *Communauté des Ursulines.* Edits et Ordonnances, édition 1855, page 288, Vol. I. 8 Vict. c. 103.

62 séculières. *Sœurs de l'Assomption.* (Nicolet, St. Grégoire, Baie du Febvre, St. Célestin, Gentilly, Ste. Monique, Rivière du Loup, St. Paulin.) Mission (5 religieuses) à Wotton, Diocèse de Sherbrooke. 29 Vict. c. 112.

16 séculières. *Sœurs de la Congrégation Notre Dame.* (Yamachiche, Ste. Anne de la Pérade, St. Christophe.) Maison mère à Montréal. Voir Diocèse de Montréal.

16 séculières. *Sœurs de la Providence.* (Trois Rivières, Yamachiche, et Ste. Ursule.) Maison mère à Montréal.

13 régulières. *Sœurs de la Présentation.* (Acton et Drummondville.) Maison mère à St. Hyacinthe. 18 Vict. c. 239.

4 séculières. *Sœurs du Bon Pasteur* (Champlain). Maison mère à Québec. 18 Vict. c. 233; 27 & 28 Vict. c. 149.

4 séculières. *Sœurs de la Charité.* (St. François du Sac.) Maison mère à Outawa. 12 Vict. c. 108; 24 Vict. 116.

Diocèse d'Outawa.

28 pères, 10 frères, religieux réguliers. *Les RR. PP. Oblats* de Marie Immaculée. 12 Vict. c. 143; 12 Vict. c. 107. (Collége d'Outawa.) Missions et enseignement classique.

12 réguliers. *Les Frères des Ecoles Chrétiennes* (enseignement élémentaire). L'établissement appartient à la "Corporation épiscopale catholique romaine d'Ottawa." 24 Vict. c. 128.

185 professes, 80 novices séculières. *Les Sœurs de la Charité* (Sœurs Grises). 12 Vict. c. 108; 24 Vict. c. 116; 27 Vict. c. 90.

27 professes, 16 novices séculières. *Les Sœurs de N. D. de la Charité*, ou *du Bon Pasteur.*

15 séculières. *Les Sœurs de la Congrégation Notre Dame.* (Maison mère à Montréal.)

Diocèse de St. Hyacinthe.

4 religieux réguliers. *Les RR. PP. Dominicains.* Appartiennent à la province de France. Ne possèdent rien; occupent le presbytère de la paroisse de N. D. de St. Hyacinthe, desservent la paroisse et font des missions.

102, y compris novices séculières. *Les Filles de la Charité de l'Hôtel-Dieu.* Missions à Sorel, à Ste. Marie de Monnoir, à St. Denis de Richelieu, à West Farnham, et à Sherbrooke. 9. Vict. c. 99; 37 Vict. c. 37; 38 Vict. c. 53.

38, y compris novices séculières. *Les Sœurs du Précieux Sang.* 28 Vict. c. 151. (La vie contemplative.)

120 professes & novices régulières. *Les Sœurs de la Présentation.* Huit missions dans le diocèse; 2 dans celui des Trois Rivières; 1 dans celui de Sherbrooke. 18 Vict. c. 239.

13 prêtres séculiers. *Séminaire de St. Hyacinthe.* 3 Guillaume IV. c. 36; 16 Vict. 83; (études classiques, théologie)..

4 prêtres séculiers. *Petit Séminaire de Ste. Marie*, ou *Collége de Ste. Marie de Monnoir.* 18 Vict. c. 73.

3 prêtres séculiers. *Collége de Sorel.* 35 Vict. c. 41.

Diocèse de Sherbrooke.

12 séculières. *Religieuses de la Congrégation Notre Dame.* A Sherbrooke et à Stanstead. Maison mère à Montréal.

5 séculières. *Sœurs Grises* ou de *Charité* (Sherbrooke). Maison mère à St. Hyacinthe.

4 régulières. *Religieuses de la Présentation* (Coaticooke). Maison mère à St. Hyacinthe.

3 séculières. *Religieuses de l'Assomption.* (Wotton.) Maison mère à Nicolet. Diocèse des Trois Rivières.

Departments of the Secretary of State to the Governor General's Secretary.

Sir, Ottawa, 13 April, 1877.

WITH reference to my letter of the 4th instant, I am directed to transmit to you herewith, for the information of His Excellency the Governor-General, a letter received this day at this Department from the Assistant Provincial Secretary of Ontario, in reply to the several communications addressed to him on the subject of Conventual and Monastic Institutions in that Province. 12th April.

I have, &c.
(signed) *Edouard Langevin*,
Under Secretary of State.

Lieut. Colonel the Hon. E. G. P. Littleton,
Governor General's Secretary.

Assistant Provincial Secretary to the Secretary of State for Canada.

Sir, Toronto, 12 April 1877.

WITH reference to your communication dated 5th March last and 4th instant, asking for information respecting Monastic and Conventual Institutions in this Province, in compliance with an Address of the English House of Commons, I am now directed to say that there are in Ontario no general laws nor ordinances nor regulations relating to Monastic or Conventual Institutions as such, or to the inmates or members thereof as such.

Various special acts of incorporation to Roman Catholic institutions in Upper Canada were granted by the Province of Canada before confederation, and are still in force. Some have been granted by the Legislature of Ontario since confederation, and these also are still in force, and some of the institutions so incorporated were probably of a monastic or conventual character though the fact is not stated in the Acts of Incorporation. The following are some of the Acts referred to:—18 Vict. cap. 225; 25 Vict. caps. 91, 92, and 93; 31 Vict., Ontario, cap. 60; 34 Vict., Ontario, caps. 92 and 93; and 36 Vict., Ontario, cap. 143. The provisions of other special Acts for the like purpose are in substance the same as these. I am further to say that since the receipt of the Despatch of the Honourable the Secretary of State of the 31st December 1875, the Government of this Province has been endeavouring to obtain a complete authoritative list of such of the incorporated institutions in Ontario as possess a monastic and conventual character. There is, however, no official information on the subject beyond what is inferable from the terms of the Acts themselves, and therefore the Government has failed hitherto in obtaining other information that might enable it to supply more fully or satisfactorily the information desired.

I have, &c.
(signed) *J. E. Echart.*
Assistant Secretary.

The Hon. the Secretary of State,
Canada, Ottawa.

FURTHER RETURN.

COPIES and TRANSLATIONS of LAWS, ORDINANCES, or REGULATIONS relating to MONASTIC and CONVENTUAL INSTITUTIONS connected with the Church of *Rome*, and to the INMATES and MEMBERS thereof, especially to the regular ORDERS of the Church of *Rome*, which may be enforced by the Authority of the State, and are at present operative in the Dominion of *Canada*—(in continuation of Parliamentary Paper [c. 1165] of 1875).

(*Mr. Newdegate.*)

Ordered, by The House of Commons, *to be Printed*,
2 *August* 1877.

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Under 2 *oz.*

CANADA.

FURTHER RETURN

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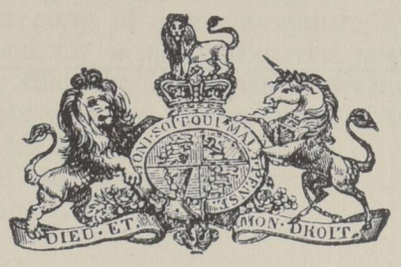
Address of the Honourable the House of Commons, dated July 27, 1874, (as far as regards the DOMINION OF CANADA)

RELATING TO THE

LAWS, ORDINANCES, AND REGULATIONS RELATIVE TO THE MONASTIC AND CONVENTUAL INSTITUTIONS IN VARIOUS FOREIGN COUNTRIES.

(*In continuation of* [C.—1165.] *July 27th*, 1874.)

Presented to both Houses of Parliament by Command of Her Majesty,
June 1877.



LONDON:
PRINTED BY GEORGE EDWARD EYRE AND WILLIAM SPOTTISWOODE,
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FOR HER MAJESTY'S STATIONERY OFFICE.

1877.

[C.—1828.] *Price* 2*d.*

TABLE OF CONTENTS.

Serial No.	From or to whom.	Date.	Subject.	Page.
1	To The Earl of Dufferin -	March 3, 1875	Transmitting an Address of the House of Commons relating to Monastic and Conventual Institutions, and requesting that steps may be taken for procuring the necessary information so far as it relates to the Dominion of Canada.	3
2	The Earl of Dufferin -	December 29 (Rec. Jan. 13, 1876).	Inclosing a Report of a Committee of the Privy Council, to which is annexed a Memorandum of the Minister of Justice, recommending that the Lieutenant Governors of each Province be requested to comply with the requirements of the Address.	3
3	Ditto - - -	April 16, 1877 (Rec. May 3, 1877).	Forwarding two letters from the Secretary of State for Canada, transmitting communications from the Lieutenant Governors of the several Provinces, furnishing the necessary information relating to Monastic and Conventual Institutions.	4

FURTHER RETURN

RELATING TO THE

LAWS, ORDINANCES, AND REGULATIONS RELATIVE TO THE MONASTIC AND CONVENTUAL INSTITUTIONS IN VARIOUS FOREIGN COUNTRIES.

No. 1.

The EARL OF CARNARVON to the EARL OF DUFFERIN.

My Lord, Downing Street, March 3, 1875.

I have the honour to transmit to you the enclosed address to Her Majesty, adopted by the House of Commons during the last session of Parliament, relating to monastic and conventual institutions connected with the Church of Rome; and I have to request that your Lordship will take such steps as may be necessary to obtain the information called for in the Address so far as it relates to the Dominion of Canada.

Address (Monastic and Conventual Institutions), House of Commons, Session 1874, 27th July.

I have, &c.

The Earl of Dufferin. (Signed) CARNARVON.

No. 2.

The EARL OF DUFFERIN to the EARL OF CARNARVON.

(Received January 13, 1876.)

Government House, Ottawa,

My Lord, December 29, 1875.

With reference to your Lordship's Despatch of the 3rd March 1875,* transmitting a copy of an address adopted by the House of Commons relating to Monastic and Conventual Institutions connected with the Church of Rome, and requesting that steps may be taken to obtain the information called for as far as it relates to Canada—

I have the honour of enclosing a copy of a report of a Committee of the Privy Council, to which is annexed a copy of a memorandum by the Minister of Justice, stating that the information asked for is not within the possession of the Government of Canada, and recommending that the Lieutenant-Governor of each Province of the Dominion be requested to comply with the requirements of the address of the House of Commons as far as it relates to his Province.

27th Dec. 1875.

Immediately on the receipt of the information from the Lieutenant-Governors I shall not fail to communicate it to your Lordship.

I have, &c.

The Right Hon. the Earl of Carnarvon, &c. &c. &c. (Signed) DUFFERIN.

Copy of a Report of a Committee of the Honourable the Privy Council, approved by his Excellency the Governor-General on the 27th December 1875.

The Committee of Council have had under consideration a Despatch from the Right Honourable the Secretary of State for the Colonies, dated 3rd March 1875, transmitting an address to Her Majesty adopted by the House of Commons, whereby

* No. 1.

41918. Wt. 1986.

Her Majesty was asked " to give directions that there be laid before this House copies " and translations of any laws, ordinances, or regulations relating to Monastic and " Conventual Institutions connected with the Church of Rome, and to the inmates or " members thereof, especially the regular Orders of the Church of Rome, which may be " enforced by the authority of the State and are at present operative in * * * " the Dominion of Canada."

This Despatch, with address, having been referred to the honourable the Minister of Justice, he submits a report, which is hereunto annexed.

The Committee concur in said report, and advise that the same be approved and acted on.

Certified,
W. A. Himsworth,
Clerk, Privy Council.

Department of Justice, Ottawa, December 23, 1875.

With reference to a Despatch from the Secretary of State for the Colonies to his Excellency, dated 3rd March 1875, transmitting an address of Her Majesty adopted by the House of Commons, whereby Her Majesty was asked " to give directions that " there be laid before this House copies and translations of any laws, ordinances, or " regulations relating to Monastic and Conventual Institutions connected with the " Church of Rome, and to the inmates or members thereof, especially the regular Orders " of the Church of Rome, which may be enforced by the authority of the State, and are " at present operative in France, in the German Empire, in the Austro-Hungarian " Empire, in the Russian Empire, in Italy, in Sweden and Norway, in Belgium, in Spain, " in Portugal, in Switzerland, in the United States of America, in the Dominion of " Canada, and in the Empire of Brazil," and requesting " that his Excellency would " take such steps as may be necessary to obtain the information called for in the " address so far as it relates to the Dominion of Canada," the undersigned begs to report :—

That the information asked for is not within the possession of the Government of Canada, and that the best mode of procuring it would appear to be by requesting the Lieutenant-Governor of each Province to obtain and transmit to his Excellency, in compliance with the Despatch, the information so far as it relates to his Province.

He recommends, therefore, that communication should be had with the several Lieutenant-Governors in this sense, accompanied by a copy of the Despatch of the Secretary of State and its enclosure.

He recommends further, that the Secretary of State be informed of the substance of this report, and the action taken thereon.

(Signed) Edward Blake,
M. J.

No. 3.

The EARL OF DUFFERIN to the EARL OF CARNARVON.

(Received May 3, 1877.)

Government House, Ottawa,
April 16, 1877.

My Lord,

With reference to the Despatches noted in the margin,* I have the honour to transmit herewith copies of two letters from the Secretary of State for Canada, covering copies of communications from the Lieutenant-Governors of the several provinces of the Dominion, furnishing the information called for by an address of the Imperial House of Commons relating to Monastic and Conventual Institutions connected with the Church of Rome.

I have, &c.
(Signed) DUFFERIN.

The Right Hon. the Earl of Carnarvon,
&c. &c. &c.

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* Nos. 1 and 2.

Department of the Secretary of State to the Governor General's Secretary.

Sir, Ottawa, March 31, 1877.

Adverting to the Despatch of the Right Honourable the Secretary of State for the Colonies, of the 3rd March 1875, I am directed to acquaint you, for the information of his Excellency the Governor-General, that the information asked for in the address of the Imperial House of Commons, a copy of which accompanied his Lordship's Despatch, not being within the possession of the Government of Canada, the Lieutenant-Governor of each province of the Dominion was requested to obtain and transmit to his Excellency, in compliance with the Despatch, the information so far as it related to his province.

I am now directed to transmit to you for the information of His Excellency, the communications on the subject which have been received from the Lieutenant-Governors of all the provinces of the Dominion, with the exception of that of Ontario.

With regard to this latter province, I am to state that, although repeatedly requested to do so, that Government has hitherto neglected to supply the information asked for.

I have, &c.

Lieut.-Col. The Hon. E. G. P. Littleton, Governor-General's Secretary.

(Signed) Edouard Langevin, Under Secretary of State.

The Lieut-Governor, New Brunswick, to the Hon. the Secretary of State, Canada.

Government House, Fredericton,

Sir, January 10, 1876.

I have the honour to acknowledge the receipt of your Despatch of 31st December, together with a copy of a Despatch from the Right Honourable the Secretary of State for the Colonies, requesting certain information relating to Monastic and Conventual Institutions connected with the Church of Rome in this province.

In compliance with your request I have to inform you that we have no regular religious orders in New Brunswick, and that all the laws, ordinances, and regulations of our orders are merely internal, having no relation whatever directly to the authority of the state.

All the religious orders in New Brunswick, with the exception of the Sisters of Charity, are simply branches from their respective Mother Houses in Canada, in whose report relative to the said address full information will probably be found.

The conventual orders of New Brunswick are as follows:—

Sacred Heart, St. John, Mother House Sault au Acolet, Montreal.

Sisters of the Holy Cross, Madawaska and Memramcook, Mother House St. Lawrence, Montreal.

Sisters of the , Newcastle, Mother House Montreal.

Sisters of the Hotel Dieu, Loretto, Gloucester County, Mother House Montreal.

The monastic orders are the Holy Cross, St. Joseph's, Memramcook, Westmoreland, Mother House St. Lawrence, Montreal.

The Christian Brothers, St. John, Mother House Montreal.

The Order of the Holy Cross was, I believe, incorporated two years ago, but the Act of Incorporation merely authorises them to hold property in their name.

The Sisters of Charity are a native institution, whose only regulations are the rules by which their respective houses are managed, which are renewed every year.

I have, &c.

(Signed) S. L. Tilley.

Lieut.-Governor, Prince Edward Island, to the Secretary of State, Canada.

Province of Prince Edward Island,

Sir, Government House, 10th January 1876.

I have the honour to acknowledge the receipt of your Despatch of the 31st ultimo, transmitting a copy of a Despatch from the Right Honourable the Secretary of State for the Colonies, and of the address to Her Majesty by the House of Commons

therein referred to, and requesting me, in accordance with Lord Carnarvon's desire, to obtain the information called for in the Address, so far as it relates to this Province, and in reply I beg to acquaint you that there are no laws, ordinances, or regulations relating to monastic and conventual institutions connected with the Church of Rome, and to the inmates or members thereof, especially the regular orders of the Church of Rome, which may be enforced by the authority of the state at present operative in this Province.

I have, &c.
(Signed) R. Hodgson.

Lieut.-Governor, Manitoba, to the Secretary of State, Canada.

Government House, Fort Garry, Manitoba,
Sir, 12th January 1876.

I have the honour to acknowledge the receipt of your Despatch of the 31st December last, and in reply have to inform you that the laws in force in this Province relating to property and civil rights are those which prevailed in England on the 15th day of July 1870, so far as the same can be made applicable thereto.

I have further to state that there are no laws of the late Province of Assinitoia or of the present Province of Manitoba, which includes the former Assinitoia, relating to Monastic or Conventual Institutions connected with the Church of Rome.

I have, &c.
(Signed) Alex. Morris.

The Lieut.-Governor, Nova Scotia, to the Secretary of State, Canada.

Government House, Halifax, Nova Scotia,
Sir, January 24, 1876.

I have the honour to acknowledge the receipt of your Despatch under date of the 31st ultimo, transmitting me a copy of a Despatch from the Right Honourable the Secretary of State for the Colonies, and of the address to Her Majesty adopted by the House of Commons referred to, and requesting certain information on the matter referred to in the address, and in reply I beg to state, for the information of the Earl of Carnarvon, that there are no laws in force in this Province relating to Monastic or Conventual Institutions connected with the Church of Rome, or to the inmates or members thereof, which can be enforced by order of the state, other than so far as the common law of England is applicable thereto.

I have, &c.
(Signed) Adams G. Archibald,
Lieut.-Governor.

Lieut.-Governor, British Columbia, to Secretary of State, Canada.

British Columbia, Government House,
Sir, 3rd March 1876.

With reference to your Despatch of the 31st December last, received by me on the 21st January, with inclosed copy of a Despatch from the Right Honourable the Secretary of State for the Colonies and of the address therein referred to from the House of Commons to Her Majesty, I have the honour to acquaint you that in accordance with the request conveyed in your Despatch that I should take steps to obtain the information called for in that address as far as it relates to this Province :—

I referred your Despatch and its enclosures to the honourable the Attorney-General for a report and received to-day from that minister the letter and return a copy of which I now transmit herewith, showing that there has not been any legislation in British Columbia on the subject to which the address relates, that is to say, as to Monastic and Conventual Institutions connected with the Church of Rome.

I have, &c.
(Signed) Joseph W. Trutch.

7

The Attorney-General of British Columbia to His Honour the Lieut.-Governor.

British Columbia,
Attorney-General's Office, 2nd March 1876.

Sir,

With reference to a copy of a Despatch from the Secretary of State for Canada, covering one from Lord Carnarvon calling, in answer to an address from the House of Commons, for copies of laws, &c. relating to Monastic and Conventual Institutions which might be in force in British Columbia, which Despatch was referred to me for report, I have the honour to acquaint your Excellency that no laws, &c. have ever been passed on this subject in British Columbia. I have therefore forwarded herewith a Return to that effect.

I have, &c.
(Signed) A. C. Elliott.

Return of all Laws, Ordinances, or Regulations in force in British Columbia relating to Monastic and Conventual Institutions connected with the Church of Rome, and to the Inmates or Members thereof, &c., &c., &c.

Nil.

(Signed) A. C. Elliott,
Attorney-General.

Victoria, British Columbia,
2nd March 1876.

The Lieutenant-Governor, Quebec, to the Secretary of State, Canada.

Hotel du Gouvernement, Quebec,
Decembre 1876.

Monsieur,

Referant à votre dépêche en date du 21 Decembre 1875 (2511 on 1309), j'ai l'honneur de vous transmettre sous ce pli pour l'information du très Honorable Secrétaire d'Etat pour les Colonies, un mémoire contenant les renseignements demandés par une addresse à Sa Majesté la Reine adoptée par la Chambre des Communes, au sujet des institutions monastiques et religieuses de la Province de Québec en rapport avec l'Eglise de Rome.

J'ai l'honneur, &c.
(Signed) L. Lettellier,
Lieutenant-Governor.

Notes sur les Lois de l'Etat Civil concernant les Communautés et Ordres Religieux Catholiques Romains dans la Province de Québec.

Les communautés religieuses de la Province de Québec, en tant que communautés, jouissent de tous les droits et priviléges reconnus ou conférés aux corporations séculières.

De plus, les propriétés qu'elles occupent pour les fins de leur ordre, respectivement (écoles, hôpitaux, &c.), sont exemptes de toutes taxes municipales.

La charte ou acte d'incorporation de chacune des villes de la province comporte cette exemption de taxe municipale en faveur des communautés religieuses. Quant aux communautés établies dans les municipalités rurales, les propriétés dont elles font usage pour les fins de leur ordre sont déclarées biens non-imposables par un article spécial du code. (Voir Code Municipal, Art. 712, sec. 3.)

Chaque membre de ces communautés est en possession de tous les droits et privilèges dont jouissent les autres sujets de Sa Majesté dans cette province, à l'exception toutefois des religieuses de l'Hotel-Dieu, de l'Hôpital-Général, et du monastère des Ursulines de Québec, du monastère des Ursulines des Trois-Rivières, et de l'Hotel-Dieu de Montréal, qui étant entrées volontairement dans une " communauté religieuse reconnue lors de la " cession du Canada à l'Angleterre," et y ayant fait des " vœux *solennels* et *perpétuels*," se sont, par le fait, dépouillées de leurs droits civils. (Voir Code Civil du Bas-Canada,

Art 34 : la loi demeurée en vigueur, en France, jusqu'en 1789, et les commentateurs de l'ancien droit français.)

Cependant, si ces religieuses sont ainsi mortes civilement, les communautés dont elles font partie possèdent, elles-mêmes, tous les droits et privilèges des autres communautés religieuses et des corporations séculières de la province. Ainsi toutes ces personnes mortes civilement ont cependant droit de " contracter par l'intermédiaire et au nom de celles des religieuses qui sont les administratrices ou préposées de l'ordre, comme elles peuvent, au même nom, ester en jugement. En un mot, les religieuses qui composent l'ordre sont, individuellement, mortes civilement, mais l'ordre lui-même jouit de la vie civile.

Dans toute communauté religieuse où il est permis de faire profession par vœux *solennels* et *perpétuels*, il est tenu deux registres de même teneur pour y insérer les actes constatant l'émission de tels vœux.

Les actes font mention des noms et prénoms et de l'âge de la personne qui fait profession, du lieu de sa naissance, et des noms et prénoms de ses père et mère. Ils sont signés par la partie elle même, par la supérieure de la communauté, par l'évêque ou autre ecclésiastique qui fait la cérémonie, et par deux des plus proches parents ou par deux amis qui y ont assisté.

Les registres durent pendant cinq années, après lesquelles l'un des doubles est disposé au greffe de la Cour Supérieure du District qu'il appartient, et l'autre reste dans la communauté pour faire partie de ses archives. (Voir *Code Civil du Bas-Canada*, Art. 70, 71, 72, 73, et 74. Voir aussi Ordonnance de 1667, Art. 16 & 20 ; Déclaration de 1736, Art. 8, 25, 27, 28, & 29.)

Notes supplémentaires.

L'article 34 du *Code Civil du Bas-Canada* se lit comme suit :—

" *Les incapacités* résultant, quant aux personnes qui professent la religion Catholique, de la profession religieuse par l'émission de vœux solennels et à perpétuité dans une communauté religieuse reconnue lors de la cession du Canada à l'Angleterre et approuvée depuis, *restent soumises* aux lois qui les réglaient à cette epoque."

L'article XXXII. de la Capitulation de Montréal (3 Septembre 1760) porte que " les communautés de filles seront *continuées dans leurs constitutions et priviléges* " et qu' " elles continueront d'observer leurs règles." Il y est dit aussi que " il sera fait " *défense de les troubler* dans les exercices de piété qu'elles pratiquent, *ni d'entrer chez* " *elles*," &c., &c.

A l'epoque de la cession du Canada à l'Angleterre les " communautés de filles " établies dans la province étaient la Congrégation de Notre Dame, l'Hôpital Général et l'Hotel-Dieu de Montréal, les Ursulines des Trois Rivières, les Ursulines, l'Hôtel-Dieu, et l'Hôpital-Général de Quebec.

Les religieuses des deux premières de ces communautés ne prononcent que des *vœux simples*, et retiennent la vie civile. Les lettres-patentes accordées par Louis XV. aux Sœurs de l'Hôpital-Général (Sœurs Grises) de Montréal, portent expressément (article 12), " que les hospitalières pourront jouir de leurs biens patrimoniaux, dont " elles conserveront la propriété, *comme les personnes séculières* qui sont dans le monde, " sous la réserve cependant que leurs héritiers ne succéderont aux biens mobiliers qui " seront à l'hôpital, appartenant à celles qui mourront au service des pauvres, que dans " le cas où elles en disposeraient en leur faveur." La Congrégation Notre Dame, érigée en communauté au mois de Mai 1671, par lettres-patentes du Roi de France (Louis XIV.) fut confirmée par Mgo. de Laval (6 Avril 1676), mais en " Congregation de filles " seculières " seulement.

Les religieuse de l'Hôtel-Dieu de Montréal, des Ursulines des Trois Rivières, des Ursulines de l'Hotel-Dieu, et de l'Hopital Général, de Québec, étaient les seules religieuses qui, à l'epoque de la cession du Canada à l'Angleterre, prononcaient les vœux solennels et perpétuels qui entraînent la mort civile. (Voir historique de ces communautés : Loranger, *Commentaires sur le Code Civil du Bas-Canada*, tome I. ; voir aussi le *Rapport* des auteurs du *Code Civil du Bas-Canada*, livre premier, art. 20.)

Il reste maintenant à examiner, premièrement, dans quelles conditions doivent être prononcés ces vœux solennels dont parle le code ; deuxièmement, quelles étaient les dispositions de l'ancien droit français, sur le mort civile qui en découle ; troisièmement, si les communautés de religieuses mortes civilement peuvent acquérir des biens, et jusqu' à quel montant.

I. Les vœux solennels exigent les conditions suivantes: 1°. Ils doivent être reçus par un supérieur qui en ait le pouvoir d'après la constitution de l'ordre; 2°. Celui ou celle qui les prononce doit avoir seize ans révolus (Ordonnance de Blois, 1559); 3°. La profession doit être volontaire, exempte d'erreur, de violence, de crainte, de dol, &c., &c.

Ces conditions sont aussi celles du Concile de Trente.

De plus, d'après l'ancien droit Français, ces vœux devaient être prononcés dans une communauté approuvée par l'Eglise et par l'Etat. (Les communautés dont nous avons parlé plus haut existaient dans ces conditions.)

II. La religieuse morte civilement est assujettie à la plupart des incapacités énumérées dans l'article 36 du Code Civil. Quant aux causes légales des incapacités monastiques, elles se trouvent dans les trois vœux que prononce la religieuse: vœux de chasteté, de pauvreté, et d'obéissance.

Par le vœu de chasteté, elle renonce au mariage, et aux immunités comme aux obligations qui en découlent. Par le vœu de pauvreté, elle renonce à tous les biens qu'elle ne peut plus posséder, acquérir, ou aliéner. Ne pouvant plus posséder de biens, ceux qu'elle avait, lors de sa profession, *vont à ceux qui seraient ses héritiers, légitimes* ou *testamentaires, si l'instant de sa mort au monde était celui de sa mort naturelle,* et à titre de succession active, elle ne peut rien acquérir par la suite. Dans les successions qui s'ouvrent, son dégré est vacant, et elles échoient à ceux qui, si elle n'était pas morte civilement, viendraient en concours avec elle, ou qui hériteraient à son défaut si elle était morte naturellement.

" N'ayant plus rien dont elle puisse disposer, ni acquérir à aucun titre, les contrats qui ont rapport aux biens lui sont interdits. Elle ne peut plus procéder en justice, ni en demandant *ni en défendant,* parceque tout procés suppose un intérêt mondain et séculier, et qu'elle a renoncé au monde et au siècle.

" Elle ne peut être témoin en justice.

" Elle ne peut être ni tutrice ni curatrice.

" Il est toutefois bien entendu que ces prohibitions, qui s'attachent à la religieuse individuellement, *ne s'appliquent pas à l'ordre ou au couvent,* et que dans les limites de leur charte de fondation et de leurs lettres d'amortissement, les communautés *peuvent posséder et contracter,* ester en jugement, et, comme les particuliers, faire tous actes nécessaires à l'administration et à la conservation de leurs biens." (Loranger, *Commentaire sur le Code Civil, tome I.*)

III. " Par leurs lettres patentes d'établissement, l'Hôtel-Dieu de Quebec et de Montréal, les Ursulines de Québec et des Trois-Rivières, et l'Hôpital Général de Québec ont reçu l'autorisation d'acquérir et de posséder à tous les titres tous biens quelconques, soit en fief, soit en censive, et toutes rentes quelconques, et de recevoir à tous titres gratuits, même par donation à cause de mort et testaments, tous dons quelconques.

" Cette faculté d'acquérir des biens nouveaux a duré jusqu'en 1743, où fut donnée la déclaration du roi concernant les ordres religieux et gens de main-morte établis aux Colonies Françaises. Déclaration connue au palais sous le nom d' ' édit des mains-mortes.'

" Cet édit fait défense aux communautés religieuses d'acquérir, sans permission royale, de nouveaux biens immobiliers, et prohibe absolument tous avantages faits en leur faveur par dispositions de dernière volonté.

" En dehors de ces prohibitions, qui ne se rattachent cependant pas à leur capacité civile, mais à la quantité de biens qu'il leur est permis de posséder, les communautés que nous venons de nommer ont, comme les corporations séculières, la jouissance de leurs droits civils." (Idem).

Tel est l'ancien droit français; telles étaient " les lois qui réglaient " les " incapacités " dont parle l'article 34 de notre Code Civil. Toutefois, afin de seconder les communautés dont nous nous occupons dans leurs œuvres si éminemment utiles, le gouvernement de la province du Canada (en 1845 et en 1849) a accordé à la plupart d'entre elles des pouvoirs supplémentaires, qui leur permettent " d'acquérir et de recevoir, par " donations, legs ou autrement," (par dispositions de dernière volonté conséquemment,) une plus grande quantité de biens que ne comportaient leurs Lettres Patentes *d'établissement*; et cela, " nonobstant toutes choses à ce contraire dans les lois communément appelées lois de main-morte, ou dans toute autre loi que ce soit."

(Voir l'acte intitulé " Acte pour autoriser les religieuses du Couvent des Ursulines " des Trois Rivières à acquérir et posséder des biens de fonds et immeubles en sus " de ceux qu'elles possèdent déja." Statuts du Canada, 8 Victoria, chapter 103, et les Actes concernant les Sœurs Hospitalières de St. Joseph, de l'Hôtel Dieu, de Montréal,

les Ursulines de Québec, et les religieuses de l'Hôpital-Général de Québec. Statuts du Canada, 12 Victoria, chapter 139, 140, et 141.)

Le chiffre total exact des personnes mortes civilement par profession religieuse, dans la province de Québec, est de 338, savoir :—

Ursulines de Québec - - -	84
Hôtel-Dieu de Québec - - -	58
Hôpital-Général de Québec - -	64
Ursulines des Trois Rivières - - -	55
Hôtel-Dieu de Montréal - - -	77
Total -	338

Les autres personnes appartenant à des communautés religieuses d'hommes ou de femmes, mais ayant conservé tous les droits de la vie civile, sont au nombre d'environ 4,000. Voir le tableau ci-joint.

Nota.—Dans le tableau qui va suivre, les ordres religieux approuvés et reconnus à Rome sont indiqués comme réguliers ; les communautés ou ordres qui ne relèvent que des évêques diocésains sont appelés séculiers.

Noms des Communautés Religieuses de la Province de Québec ; Actes d'incorporation, &c. &c. ; Diocèses de Québec, de Montréal, de Trois-Rivières, d'Outawa, de St. Hyacinthe, de Rimouski, et de Sherbrooke.

Archidiocèse de Québec.

9 prêtres agregés séculiers, 13 professeurs laïques.

L'Université Laval. Administrée par S. G. Mgr. l'Archevêque et par le Séminaire de Québec. Charte royale accordée par Sa Majesté le 8 Décembre 1852. (Pas de charte provinciale.) Théologie, droit, médecine, sciences, et arts.

22 agregés & auxiliaires, prêtres séculiers.

Séminaire des Missions étrangères (Séminaire de Québec). Edits et Ordonnances, édition 1855, pages 33, 34, 35, 79, 80, 84, 269, et 270, Vol. I. ; page 58, Vol. II. ; et page 410, Vol. III. ; 7 Victoria, chap. 55. Petit Séminaire. Etudes classiques.

4 pères, 2 frères, religieux réguliers.

R. R. PP. Jésuites. " Missionnaires de Notre Dame, S. J." 35 Victoria, chap. 46.

5 religieux réguliers, 2 frères.

Les RR. PP. Oblats de l'Immaculée-Conception, de la communauté de Montréal. 12 Victoria, ch. 143 ; 38 Victoria, chap. 51. Missionnaires.

5 religieux réguliers.

Les RR. PP. Rédemptoristes. Ne possèdent rien, mais desservent et administrent l'Eglise St. Patrice de Québec. Corporation de l'église St. Patrice. 13 et 14 Victoria, chap. 125, 18 Victoria, ch. 228, et 38 Victoria, chap. 30.

90 religieuses séculieres.

Les Sœurs de la Congrégation Notre Dame. Maison mère à Montréal ; plusieurs succursales dans l'archidiocèse. Edits et Ordonnances, édition 1855, page 69, Vol. I., et 268, Vol. II. ; 8 Victoria, chap. 99.

64 cloitrées régulières.

Religieuses de l'Hôpital Général de Québec. Edits et Ordonnances, édition 1855, pages 271, 336, 403, 404, 497, 499, et 553, Vol. I., et page 404, Vol. II. ; 12 Victoria, ch. 140.

145 seculières.

Asile du Bon Pasteur de Québec. Plusieurs succursales. 18 Victoria, chap. 233 ; 27 & 28 Victoria, chap. 149.

12 agregés & auxiliaires, prêtres seculiers.

Corporation du Collége de Ste. Anne de Lapocatière. 4 Guillaume IV., chap. 35 ; 25 Victoria, chap. 78.

58 cloitrées régulières.

Religieuses de l'Hôtel-Dieu (Québec). Edits et Ordonnances, édition 1855, page 244, Vol. I., et pages 22 et 483 du Vol. II. Aucun acte d'incorporation provincial.

84 cloitrées régulières.

Ursulines de Québec. 12 Victoria, chap. 141. Voyez " Notes Supplémentaires " enseignement.

150 seculières.

Les Sœurs de la Charité de Québec. 16 Victoria, ch. 264, 25 Victoria, ch. 90. Soins des malades et des orphelins.

59 régulièrs.

Les Frères de la Doctrine Chrétienne. Ne possedent rien. Missions à Ste. Marie de la Beauce, à l'islet, et à St. Thomas de Montmagny. La maison qu'ils occupent à Québec est la propriété de la Société d'Education du District de Québec (Voir 9 Victoria, ch. 50).

13 cloitrées régulières.

Religieuses de l'Hôpital du Sacré Cœur de Jésus. 37 Victoria, ch. 38.

92 séculières.

Les dames religieuses de Jésus-Marie. Noviciat à Sillery. Plusieurs succursales. 24 Vict. ch. 118. Enseignement.

5 prêtres séculiers.

Collége de Lévis. 38 Vict., ch. 49. Collége Commercial.

11

Diocèse de Montréal.

Les Ecclésiastiques du Séminaire de St. Sulpice. 3 & 4 Vict. chap. 30, 8 Vict. ch. 42, 18 Vict. ch. 3. Desservant les paroisses de Notre Dame, de St. Patrice, de St. Jacques, de St. Joseph, et de Ste. Anne, à Montréal, la paroisse de l'Annonciation, au Lac des Deux Montagnes. Ils dirigent le grand Séminaire diocesain et le Collége de Montréal (études classiques). — 56 prêtres séculiers.

Les RR. PP. Jésuites. Corporation du Collége Ste. Marie, 16 Vict., ch. 57, 36 Vict. ch. 64. La maison St. Joseph du Sault au Récollet, 32 Vict. ch. 78 (études classiques, noviciat). — Religieux réguliers: 28 pères, 49 frères profès.

La Corporation du Petit Séminaire de Ste. Thérèse. 8 Victoria, chap. 100 (études classiques). — Prêtres séculiers 12, dont 8 agrégés.

La Corporation du Collége de l'Assomption. 4 & 5 Victoria, chap. 68 (études classiques). — Prêtres séculiers 10 (aucun agrégés).

Les Clercs paroissiaux, ou Catéchistes de St. Viateur. Maisons à Joliette et a Rigaud (colléges classiques) à Verchères, Boucherville, Laprairie, Berthier, St. Roch, St. Thimothé, St. Vincent de Paul, St. André, St. Eustache, L'Enfant Jesus de la Pointe aux Trembles (écoles commerciales). 12 Vict. c. 144. Ils dirigent aussi l'Institution catholique des Sourds-Muets (paroisse de l'Enfant Jésus, près Montréal). 37 Vict. c. 39. — Réguliers: 115 agrégés, 37 novices.

Les RR. PP. Oblats de l'Immaculée Conception de Marie. Missionnaires. Desservant l'Eglise St. Pierre à Montreal. Noviciat à Lachine. 12 Vict. c. 143; 38 Vict. c. 51. — Réguliers: 51 prêtres, 6 scholastiques profès, 22 scholastiques novices, 9 frères convers à vœux perpétuels, 24 frères convers à vœux simples.

La Congrégation de Ste. Croix. (Prêtres et frères.) Dirige le collége classique de St. Laurent, le collége de la Cote des Neiges, le collége industriel de St. Jérome. 12 Vict. c. 146; 25 Vict. c. 81. L'Acte d'Incorporation du college N. D. de la Cote des Neiges a été passé à la dernière session (1875). — 106 réguliers.

Les Frères des Ecoles Chrétiennes. Etablis dans le diocése le 23 Dec. 1837; formés en corporation le 24 Dec. 1875. Nombreuses écoles dans Montréal. Maisons à St. Henri des Tanneries St. Jean d'Iberville, Beauharnois, Chambly, N. D. de Grâces Longueuil. — Réguliers: 59 profès.

Les religieuses Sœurs Hospitalières de St. Joseph de l'Hôtel-Dieu. Edits et Ordonnances, édition 1855, p. 66, vol. I. 12 Vict. c. 139. — Régulières: 77 professes.

Les Frères de la Charité de St. Vincent de Paul. (Soins des vieillards, malades et aliénes, éducation. Ces frères dirigent la maison de réforme des "Jeunes délinquants." 32 Vict. c. 77. — Réguliers: 21 frères profès, 21 novices profès.

Les Sœurs de la Charité de l'Hôpital-Général, ou Sœurs Grises. (Soins et sécours aux malades, aux infirmes, et aux orphelins.) Dirigent des hôpitaux, salles d'asile, &c. dans Montréal, St. Benoit, Varennes, Beauharnois, Cote des Neiges, Chambly, St. Jean, ainsi que l'Institution des Jeunes Aveugles (Nazareth) à Montréal. Edits et Ordonnances, édition 1855, pages 389, 390, et 613, vol. I.; et pages 269, 391, 404, 406, et 407, vol. II. 9 Vict. c. 92., 16 Vict. c. 116., 22 Vict. c. 18., 31 Vict. c. 56. — Séculières: 241 professes, 51 novices.

Les Sœurs de l'Asile de la Providence. (Visite des pauvres et des malades à domicile, visite des prisoniers, éducation des sourdes-muettes.) Elles dirigent le grand Asile des Aliénés, dit de St. Jean de Dieu, à la Longue Pointe (subventionné par le gouvernement), et ont des établissements à Laprairie, Joliette, St. Paul, Ste. Elizabeth, St. Henri de Mascouche, St. Vincent de Paul, St. Ignace du Coteau du Lac, L'Assomption, Lanoraie, L'Enfant Jésus du Coteau St. Louis. 4 & 5 Vict. c. 62., 34 Vict. c. 53. — Séculières: 332 sœurs professes, 76 novices, 28 agrégées.

Les Carmélites. Etablies à Hochelaga près Montréal en 1875. (Vie contemplative.) — Régulières 5.

Les Sœurs de N. D. de la Charité du Bon Pasteur. Soin des filles repenties. Direction de la Prison de Réforme des filles. Maison à St. Hubert. 9 Vict. c. 91. — Régulières: 108 religieuses, 2 tourrières, 25 madelaines pénitentes.

Les Dame du Sacré Cœur. Education des jeunes filles. Maison à Montréal, maison principale au Sault au Recollet. 7 Vict. c. 54. — Régulières: 39 professes, 29 coadjutrices.

Sœurs des Saints Noms de Jésus et de Marie. (Education) Hochelaga, (Noviciat) Longueuil, St. Lin, St. Thimothée, St. Clément de Beauharnois, Verchères, St. Roch de l'Achigan, St. Louis de Gonzague, Ste. Cécile de Salaberry, et St. Anicet. 8 Vict. c. 101. — Séculières: 328 professes, 28 novices.

La Communauté des Filles de Ste. Anne. (Education) Lachine, (Noviciat) Vaudreuil, St. Ambroise, Rawdon, St. Cuthbert, St. Cyprien, St. Rémi, Ste. Geneviève, St. Jacques de l'Achigan, St. Gabriel, St. Jérome, St. Michel Archange, St. Polycarpe, 23 Vict. c. 136. — Séculières: 218 professes, 42 novices.

Séculières. 70 professes, 12 novices. *La communauté des Sœurs de Sainte Croix.* (Instruction des jeunes filles.) Maison principale à St. Laurent, autres maisons à St. Martin, Ste. Scholastique, Varennes, St. Ligouri, St. Jacques de la ville de Montréal. 12 Vict. c. 137.

Séculières : 57 professes, 4 novices, 34 magdeleines, (60 agregées). *Les Sœurs de la Misericorde.* (Hospice de la Maternité.) Asile aux femmes et filles tombées. Régéneration par la pénitence. 12 Vict. c. 138.

Séculières : 7 sœurs de chœur, 1 converse, 3 novice. *Les religieuses du Précieux Sang.* Etablies à Notre Dame de Grâce, près Montréal, en 1875. (Vie contemplative.)

Séculières : 593 professes, 67 novices. *Les Sœurs de la Congrégation N. D. de Montréal.* (Instruction des jeunes filles.) Noviciat à Montréal. Etablissements à Villa Maria, près Montréal, et au Mont Ste. Marie dans la ville. Pensionnats à Joliette, St. Jean Dorchester, Boucheville, Laprairie, La Pointe Claire, Huntingdon, La Pointe aux Trembles, Berthier, L'Assomption, Terrebonne, Ste. Thérèse, L'Annonciation (Lac des Deux Montagnes), Chateauguay, et Chambly. Edits et Ordonnances, édition de 1855, page 69, vol. I., et page 268, vol. II. 8 Vict. c. 99.

Diocèse de St. Germain de Rimouski.

3 religieux réguliers. *Les Missionnaires Oblats.* À Betsiamits. (Voyez Montréal.)

6 prêtres séculiers. *Le Séminaire de St. Germain de Rimouski.* 34 Vict. c. 47. Ecole de théologie et collége classique.

Séculières : 8 professes. *Les Sœurs de la Congrégation Notre Dame.* Maison à Rimouski. Education des jeunes filles. (Voyez Montréal.)

Régulières : 3 professes, 6 novices. *Les Carmélites dechaussées.* 39 Vict. c. 84. (Vie contemplative.)

Séculières : 18 professes, 8 novices. *L'hospice des Sœurs de Charité* de Rimouski. 38 Vict. ch. 54. Maisons à Rimouski et à Cacouna. (Hôpitaux et écoles.)

Séculières 5. *Les Sœurs de Jésus-Marie,* aux Trois Pistoles. Maison mères à Sillery, près Québec. Education des jeunes filles.

Séculières 6. *Les Sœurs de Petites Ecoles des Pauvres.* (Non encore incorporées.)

Diocèse de Trois-Rivières.

7 prêtres séculiers. *Séminaire des Trois-Rivières.* 23 Vict. ch. 133, 37 Vict. ch. 33.

7 prêtres séculiers. *Le Séminaire de Nicolet,* Lettres-Patentes de George IV. du 10 Décembre 1821. 22 Vict. c. 68.

15 réguliers. *Frères de la Doctrine Chrétienne,* aux Trois Rivières et à Yamachiche. Ne possédent rien. Les établissement qu'ils occupent appartiennent aux municipalités scolaires.

5 séculiers. *Les Frères du Sacré Cœur,* à St. Christophe.

55 cloîtrées régulières. *Communauté des Ursulines.* Edits et Ordonnances, édition 1855, page 288, vol. I. 8 Vict. c. 103.

62 séculières. *Sœurs de l'Assomption.* (Nicolet, St. Grégoire, Baie du Febvre, St. Célestin, Gentilly, Ste. Monique, Rivière du Loup, St. Paulin.) Mission (5 religieuses) à Wotton, Diocèse de Sherbrooke. 29 Vict. c. 112.

16 séculières. *Sœurs de la Congrégation Notre Dame.* (Yamachiche, Ste. Anne de la Pérade, St. Christophe.) Maison mère à Montréal. Voir Diocèse de Montréal.

16 séculières. *Sœurs de la Providence.* (Trois Rivières, Yamachiche, et Ste. Ursule.) Maison mère à Montréal.

13 régulières. *Sœurs de la Présentation.* (Acton et Drummondville.) Maison mère à St. Hyacinthe. 18 Vict. c. 239.

4 séculières. *Sœurs du Bon Pasteur* (Champlain). Maison mère à Québec. 18 Vict. c. 233; 27 & 28 Vict. c. 149.

4 séculières. *Sœurs de la Charité.* (St. François du Sac.) Maison mère à Outawa. 12 Vict. c. 108; 24 Vict. c. 116.

Diocèse d'Outawa.

28 pères, 10 frères, religieux réguliers. *Les RR. PP. Oblats* de Marie Immaculée. 12 Vict. c. 143; 12 Vict. c. 107. (Collége d'Outawa.) Missions et enseignement classique.

12 réguliers. *Les Frères des Ecoles Chrétiennes* (enseignement élémentaire). L'établissement appartient à la "Corporation épiscopale catholique romaine d'Ottawa." 24 Vict. c. 128.

Les Sœurs de la Charité (Sœurs Grises). 12 Vict. c. 108; 24 Vict. c. 116; 27 Vict. c. 90. — 185 professes, 80 novices séculières.

Les Sœurs de N.D. de la Charité, ou *du Bon Pasteur.* — 27 professes, 16 novices séculières.

Les Sœurs de la Congrégation Notre Dame. (Maison mère à Montréal.) — 15 séculières.

Diocèse de St. Hyacinthe.

Les RR. PP. Dominicains. Appartiennent à la province de France. Ne possédent rien; occupent le presbytère de la paroisse de N.D. de St. Hyacinthe, desservent la paroisse et font des missions. — 4 religieux réguliers.

Les Filles de la Charité de l'Hôtel-Dieu. Missions à Sorel, à Ste. Marie de Monnoir, à St. Denis de Richelieu, à West Farnham, et à Sherbrooke. 9 Vict. c. 99; 37 Vict. c. 37; 38 Vict. c. 53. — 102, y compris novices séculières.

Les Sœurs du Précieux Sang. 28 Vict. c. 151. (La vie contemplative.) — 38, y compris novices séculières.

Les Sœurs de la Présentation. 8 missions dans le diocèse; 2 dans celui des Trois Rivières; 1 dans celui de Sherbrooke. 18 Vict. c. 239. — 120 professes & novices régulières.

Séminaire de St. Hyacinthe. 3 Guillaume IV. c. 36; 16 Vict. 83; (études classiques, theologie). — 13 prêtres séculiers.

Petit Séminaire de Ste. Marie, ou *Collège de Ste. Marie de Monnoir.* 18 Vict c. 73. — 4 prêtres séculiers.

Collège de Sorel. 35 Vict. c 41. — 3 prêtres séculiers.

Diocèse de Sherbrooke.

Religieuses de la Congrégation Notra Dame. Asherbrooke et à Stanstead. Maison mère à Montréal. — 12 séculières.

Sœurs Grises ou de *Charité* (Sherbrooke). Maison mère à St. Hyacinthe. — 5 séculières.

Religieuses de la Présentation (Coaticooke). Maison mère à St. Hyacinthe. — 4 régulières.

Religieuses de l'Assomption. (Wotton.) Maison mère à Nicolet. Diocèse des Trois Rivières. — 3 séculières.

Department of the Secretary of State to the Governor General's Secretary.

Sir, Ottawa, April 13, 1877.

With reference to my letter of the 4th instant, I am directed to transmit to you herewith, for the information of his Excellency the Governor-General, a letter received this day at this Department from the Assistant Provincial Secretary of Ontario, in reply to the several communications addressed to him on the subject of Conventual and Monastic Institutions in that Province. — April 12th.

I have, &c.

(Signed) Edouard Langevin,
Under Secretary of State.

Lt.-Colonel the Hon. E. G. P. Littleton,
Governor-General's Secretary.

Assistant Provincial Secretary to the Secretary of State for Canada.

Sir, Toronto, April 12, 1877.

With reference to your communication dated 5th March last and 4th instant, asking for information respecting Monastic and Conventual Institutions in this Province, in compliance with an address of the English House of Commons, I am now directed to say that there are in Ontario no general laws nor ordinances nor regulations relating to Monastic or Conventual Institutions as such, or to the inmates or members thereof as such.

Various special acts of incorporation to Roman Catholic institutions in Upper Canada were granted by the Province of Canada before confederation, and are still in force. Some have been granted by the Legislature of Ontario since confederation, and these also are still in force, and some of the institutions so incorporated were probably of a

monastic or conventual character though the fact is not stated in the Acts of Incorporation. The following are some of the Acts referred to,—18 Vict. cap. 225 25 Vict. caps. 91, 92, and 93; 31 Vict., Ontario, cap. 60; 34 Vict., Ontario, caps. 92 and 93; and 36 Vict., Ontario, cap. 143. The provisions of other special Acts for the like purpose are in substance the same as these. I am further to say that since the receipt of the Despatch of the Honourable the Secretary of State of the 31st December 1875, the Government of this Province has been endeavouring to obtain a complete authoritative list of such of the incorporated institutions in Ontario as possess a monastic and conventual character. There is, however, no official information on the subject beyond what is inferable from the terms of the Acts themselves, and therefore the Government has failed hitherto in obtaining other information that might enable it to supply more fully or satisfactorily the information desired.

I have, &c.

The Hon. the Secretary of State,
Canada, Ottawa.

(Signed) J. E. Echart,
Assistant Secretary.

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PAUPER CHILDREN (EMIGRATION TO CANADA).

RETURN to an Address of the Honourable The House of Commons, dated 11 June 1877; *for*,—

COPY "of the REPLY of Mr. DOYLE to Miss RYE'S REPORT on the EMIGRATION of PAUPER CHILDREN to CANADA."

Local Government Board, 11 June 1877.

JOHN LAMBERT, Secretary.

Mr. *Doyle* to the President of the Local Government Board.

Sir, Plas Dulas, Abergele, 14 May 1877.

I HAVE read the printed letter addressed to you and just published by Miss Rye, to which you were good enough to call my attention on the 3rd instant. As that letter purports to be a reply to a report made by me nearly three years ago, I desire to submit to you very briefly the reasons why, after considering it, I am still of opinion that no pauper children ought to be sent to Canada under Miss Rye's present system of emigration. I am satisfied, Sir, and I believe I shall beable to satisfy you—even upon the evidence that Miss Rye now lays before you—

1. That pauper children of advanced years who are taken out to be immediately placed in service in Canada, are collected without regard to special fitness, physical or moral, and are unsuited for such a mode of life.

2. That irrespective of their unfitness for the position into which they are suddenly thrown, they are, from the mere fact of their being "pauper" children, exposed to great disadvantages and to much obloquy.

3. That there is a total absence of efficient supervision, and consequently children are exposed to suffering and wrong for which they get neither relief nor redress.

A considerable number of the pauper children taken out by Miss Rye have had, as you will observe from her statements, very little experience of workhouse life, and it may be said with confidence that neither the guardians who send them, nor the agent who takes them, can have any knowledge of their fitness for emigration. With respect to them: guardians are tempted to avail themselves of an opportunity of getting rid at a cheap rate of paupers who are likely to become burdensome, and Miss Rye, who knows the condition of the Canadian labour market, is but too ready to take them. With respect to the larger class who may be fairly designated "workhouse children," the sudden transition from an English workhouse to Canadian domestic service, the habits and conditions of which are essentially different from those to which they have been accustomed, is attended with very unsatisfactory results. "I know," as one of them wrote to me, "that I had "several places and me not know how to do their work as they did; they "would scold and offer to strike me, and, of course, I would leave." In Canada "the workhouse child exhibits," Miss Rye has so stated, "the most frightful "and disheartening obstinacy and deceit." This unfavourable view is confirmed, not only as will be seen by her own detailed statements, but by the testimony of her friends and fellow labourers. Mr. Boyd "knows of two girls "who have fallen, but they had in their very looks on arrival a looseness that "augured ill for their future." Mr. Ball (Miss Rye describes this gentleman as "a legally appointed guardian" of these children) "does not consider the "children from the industrial schools as the most desirable to have, or most "likely to succeed in life." Mr. Robson having had a portion of each class "[workhouse and arab] through his hands, unhesitatingly says that he much "prefers the latter, as they are more industrious and obedient, less inclined

" to be stubborn and sulky, and decidedly more grateful for what has been " and is being done for them. The lack of industry of the former class," he continues, " I attribute to the mistaken system of training in the English " workhouses, where the children, instead of being made to do the work of the " establishment so soon as they are old enough to do so are waited upon " according to their own account by hired servants." The consequence, according to Miss Rye's statement, is "at 15 or 16 nearly all these young " people have what I call 'freedom-fever'; they are restless, discontented, dis- " affected, needing, amongst other things, possibly, liberty to go where they will." This remark of Miss Rye is exactly in accordance with the view taken by me in my Report. To the prevalence of this " freedom fever " and " liberty to go " where they will," may, probably, be ascribed the fact that of the comparatively small number who up to the year 1875 had passed out of childhood no fewer than 16 have, to Miss Rye's knowledge, become mothers of illegitimate children, 11 of the number being under 18 years of age, the term up to which they were to be " looked after." To that number must be added others of whom Miss Rye apparently knows nothing. There are also 28 " of 15 years of age and " under" admitted to be " lost sight of"; the total number either " reported " or returned to the Home " for " extreme obstinacy and violent temper " is no fewer than 92. To this number must, I regret to say, be added rather more than 100 " lost sight of," *above* the age of 15.

If you could still, Sir, have any doubt that the children are, I won't say selected, but collected, with total disregard to fitness, physical or moral, for emigration, you may satisfy yourself of the fact by glancing over Miss Rye's " synopsis " referring especially to such cases as those numbered 77, 78, 79, 83, 199, 257, 352, 372, 444, 474, 497, 649, 658, 754, 780, 789, 854, 896, 911, 1,016, 1,019, 1,050, and 1,059. I may, however, give from that document a few illustrations of what I wish to convey, when I speak of the children being collected without any regard to special fitness.

88. A. R.—This girl had been one month in the Kirkdale Workhouse; was taken out in 1870; has been in nine different places, and Miss Rye writes of her, " A thoroughly bad and incorrigible girl, quite beyond our management or " anybody else's."

147. C. T.—Miss Rye says, that " This is a case that ought to be returned to " the workhouse." This child, however, had been seen by Miss Rye before she left the Bristol Workhouse, and she is reported by the workhouse official to be " very slow, sly." Miss Rye took this child out in 1870, and although she was " bound for service " with her first master she has been in six different places, and at last " lost sight of." This child was " said not to be quite right in her " mind." Two doctors examined her, and reported that her mind was not diseased.

224. A. N.—Was taken out in 1870. Miss Rye writes, " This girl has a " sister in the incurable ward of Brownlow Hill, and was not a good case to " emigrate, on account of bad health."

228. M. J. R.—" Bound for service " in her first place; since been in two other places. Of this case Miss Rye says, " I fear, consumptive."

275. E. H.—This child was taken out in 1870, " bound for service," but has been in four different places. " This girl," says Miss Rye, " ought never to have " emigrated, as according to the account given by the other Toxteth Park " children, she had repeatedly been brought before the guardians as an " 'incorrigible' before she was given to me." But Miss Rye, herself, selected her. The workhouse officers report of her, " fair intelligence, but of an " obstinate disposition."

384. M. A. S.—Miss Rye selected this child in 1871, and she was " bound for " service," but on account of her health had to be taken to an hospital; was lost sight of for three years; she is now in service. Of this child Miss Rye writes, " a sickly child who will never do very well anywhere." The character she bore in the workhouse, where she had been for nine months, was " very slow."

399. E. M.—Miss Rye visited Birmingham Workhouse in 1871, " spoke to the " girls collectively, and, with others, E. M. was taken out; at the workhouse her " conduct

"conduct and intelligence both indifferent." This girl when in Canada was "bound for service," and although "bound" was "returned as too young, "dirty, and obstinate." This child has been in 10 different places, in one of which she was kept "just 24 hours." She had been in an hospital at Toronto, and examined "as to the state of her brain, not considered bad enough for "confinement." She is now in the "Home," and Miss Rye writes, "either an "incorrigibly naughty girl or else a semi-lunatic; such a girl should never have "been allowed to emigrate."

437. J. T.—This child was taken to Canada in 1871 and "adopted." Her character in the workhouse before she left was "not good." She was returned by the person who adopted her for insubordination; she was upon one occasion "locked up for safety;" she is now in her ninth place, where she is "doing a "little better at last, under threat of being sent to a reformatory if returned to "the 'Home' again." Miss Rye describes her as being "an indescribably "naughty and aggravating girl, with plenty of capability."

453. G. P.—Miss Rye saw this girl at the workhouse before taking her out; she now writes of her, "decidedly below par, intellectually; ought never to have "been sent." She is in her fourth place.

These cases, to which, however, I could add very many more of a similar character, are, I think, sufficient to prove that pauper children of advanced years, who are taken out to be immediately placed in service in Canada, are collected without regard to special fitness, and are, from whatever cause, unsuited for such a mode of life.

As to the second objection, I must repeat here what I said in my report, that the conditions under which the children are placed in service are far too unfavourable to them. In no other way can one account for the eagerness of Canadian employers to get them, and the unwillingness of the working people in Canada to send their own children into service upon the same terms. Nor is it easy to understand why managers do not avail themselves of those "splendid "homes" that are spoken of for the children who may be found in such numbers in the various charitable institutions of the chief cities of the Dominion. With every wish to abstain from making statements at which any class of people in Canada could reasonably take offence, I must repeat, without qualification, what I said in my report, that "there are few boards of guardians in England, "who would not feel indignant if fully aware of the light in which the children "sent out by them are too often presented to the people of Canada." "Starve-"lings," and "Miss Rye's guttersnipes," are expressions that I find upon my notes applied to these children in my hearing. Nor can Miss Rye be acquitted of having some share in aggravating this evil, notwithstanding her assurance that she is ever "moved by Divine love and compassion for my own little "ones." When I complain, for instance, of the filthy condition in which children are sometimes sent into service, her prompt published reply is, "This is too "true, and as we get the children chiefly from the workhouses, this cannot be "very much wondered at." Nor does she hesitate to publish, and allow to be circulated in Canada, the letter of a foolish and insolent correspondent, who "only has to say, for the benefit of Poor Law Guardians, that my dogs have "more good fresh meat than any poorhouse child ever had." I refer to such statements simply as illustrating the sort of impression that has been produced in Canada with reference to these children, and of the existence of which I had abundant evidence in my intercourse with persons of all classes. Nor, it must be said, is Miss Rye even now, after attention has been called to the subject, at much pains to mitigate or soften such adverse impressions. What object can that lady propose to herself in printing and publishing, as she does in her letter to you, such a story as this: "On one occasion, when we were leaving the Mersey, "and slowly steaming away, while the other passengers were waving their hand-"kerchiefs and raising a true English cheer for the dear old land they were "leaving, my large crowd of workhouse children took up the strain from the "other passengers almost before it had ceased, and burst into a long, loud, and "terrible groan, and 'three groans for England' were raised and given before "I had power to gain silence." If indeed such be the feeling that these children carry out to Canada, boards of guardians may feel assured that the fewer of them that are sent there the better, for in no other part of the world would this juvenile cargo of ingratitude and disloyalty to "the dear old land they

"were leaving" be less likely to find a welcome than in the Dominion of Canada.

That these children "are exposed to great disadvantage and much obloquy" needs no other proof—though other proof could be given in abundance—than what may be found in this "synopsis" of Miss Rye. Without a chance of telling their own story, or of having a word said in their defence, a very considerable proportion of them, dependant as they are on their character for their bread, are publicly stigmatised by name, with their Canadian addresses fully given, in a way that can hardly fail to bar them from service in any decent family. "Thoroughly bad and lazy," "unmanageable," "guilty of misdemeanour in every way," "petty thieving," "unmanageable and impertinent," "decidedly unsatisfactory," "gross immorality," "insubordination," "a discontented, lazy girl," "carrying tales about the family from house to house," "extreme filthiness of personal habits," "impertinence and loose conduct," "a rough, coarse, disobedient girl," "a most incorrigibly lazy and incapable girl," "below par intellectually, but not quite an idiot," "transferred on account of her fearfully immoral tendencies," "stubborn and insubordinate," "incorrigibly naughty or else a semi-lunatic," "thoroughly lasy and viciously disposed," "a lazy and troublesome girl," "an indescribably naughty and aggravating girl," "selfwilled and unmanageable," "a loose character," "the grossest possible immorality," "lying and deceit," "a coarse, rough, and deceitful girl," "a thoroughly bad girl," "an illconditioned girl, who stole clothes from the other children," "a bold disobedient girl"—such, Sir, are examples of the way in which scores of these children are now presented to the public of their adopted country by one from whose judgment they have no appeal.

It would be mere waste of words to insist at the present time upon the necessity of strict, methodical, and responsible supervision of children placed out in service. In every country in which children are so placed, in England, Scotland, Ireland, France, the strictest supervision is provided for. All those who take, or have taken, interest in the subject, legislators and administrators, have recognised this as the one indispensable condition. Miss Rye appears to be the solitary exception; she avows that she has "no set plans, no rules, no sharply "defined policy about overlooking the children in Canada." Regulations for supervision that are essential in other countries, and for other agents, she thinks may be dispensed with in Canada, and on behalf of Miss Rye alone. There are other labourers, however, in the same field who do not take the same view, either as to the necessity of supervision, or of their own responsibility. A list of them is furnished to you in Miss Rye's letter; the first names on the list being "Messrs. McPherson and Bilbrough, with their Whitechapel and Belleville "Homes." "Messrs. McPherson and Bilbrough" is not the title, as the style of this reference might lead you to think it was, of a mere trading firm. Miss Macpherson and Miss Bilborough are ladies, engaged, and very earnestly engaged, in missionary and emigration work, the senior partner, or head of the house, if I may so express it, being "Annie Macpherson," the familiar name that is as much and deservedly respected as it is widely known in the Dominion to which she is so true and disinterested a benefactor: the other, a patient, unostentatious labourer in a work of charity, to which she gives not merely her private means, but the most zealous personal services, guided by good feeling, intelligence, and admirable judgment. Miss Macpherson's friends found as much fault with my report, and have favoured me with quite as much injustice, abuse, and misrepresentation as have other equally candid and charitable people both here and in Canada. Miss Macpherson notwithstanding has, I believe, recognised the importance of most of the suggestions that I made, and through her good sense and good feeling has adopted them in practice, though I greatly regret the omission of one, her own admirable suggestion indeed, not mine. I objected to the mixing of workhouse children with the "waifs and strays." She now declines to take any more workhouse children. I pointed out the risks to which grown girls taken out as emigrants for domestic service were exposed. She now, as far as possible, confines herself, as I understand, to taking out very young children for adoption. I complained of the incompleteness of her system of supervision; she has "put on more visitors." By effecting these changes, and still entrusting the administration to such fellow labourers as Miss Bilborough, Miss Reavell, and Miss Barber, Miss Macpherson appears to have placed her system

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of juvenile emigration on such a footing as to entitle it to the support of all persons who take an interest in the welfare of the most helpless of the poor; the destitute and neglected children, girls, as well as boys, who swarm in such localities as her "Whitechapel Home." Now, Sir, the wide and varied experience of Miss Macpherson in Canada has led her to the conclusion, that no matter what class of children you take out, or in what class of homes you may place them, the strictest personal supervision is absolutely indispensable. Even if I could appeal to no other or higher authority than that of Miss Macpherson, hers alone would be sufficient to justify the opinion I have expressed, that no children ought to be sent out until a complete and satisfactory system of supervision is established. Allow me to direct your attention specially to the following passage from an official report just made at the instance of the Local Government of New Brunswick and Nova Scotia, upon the systems of Miss Rye and Mrs. Birt (a sister, I believe, of Miss Macpherson): "In passing from Miss Rye's "children to those brought out by Mrs. Birt, we are at once enabled to see the "great advantage resulting from the system introduced and established by "Colonel Lourie and Mrs. Birt. The Local Government having passed a Bill, "making the colonel the legal guardian of all the children brought out under "Mrs. Birt's care, he is enabled to protect the child from unjust treatment, and "to defend the guardian from being imposed upon by the interference "of outsiders. *His system of quarterly reports being sent in from every "child, is the brightest spot in his whole management, and is the only "plan by which perfect success can be secured.*" Most valuable evidence on this subject is contained in the reports of "The Children's Home," with reference to "the Canadian branch" of that institution. While it is said that "Canada can find a welcome for as many children as we choose to send out," it is added that in the first place these children "*must be trained.*" They are not sent out to the Canadian Distributing Home "until they have been so far "trained and tested that we can speak of their character with a reasonable "amount of confidence." Then, lastly, "The agent *periodically visits the chil-"dren in their situations and reports as to their condition and the treatment they "receive.*" Mr. Turner, the chaplain of the *The Boys' Home*, Regent's Park, who visited the Canadian Home at Hamilton, Ontario, writes: "Previous "training in your English Homes is just the very requisite for Canadian "Homes." He found that "there is an excellent system of visitation," and adds, "*If the system is to flourish it can only do so by this supervision carefully "carried out, profitable alike for master and servant.*" This society, like that of Miss Macpherson, is a Protestant Missionary Society, rather than a mere emigration agency. "The children are entitled to return to the Home in the "case of sickness or in the intervals between holding different situations." The people amongst whom children are boarded out in Scotland are the same "simple country folks" in whom Miss Rye puts so much confidence in Canada. Yet there is no one point so much insisted upon in Scotland as strict supervision. Look at the evidence upon the subject in the very valuable report recently made by Mr. Skelton, Secretary to the Poor Law Board in Scotland. Replying to the same class of silly and groundless objections to inspection, that people who are absolutely ignorant of the whole question as it affects Canada are so fond of repeating, Mr. Skelton says, "It can only be "replied that there *must* be inspection; thorough, vigilant, constant inspection, "is the keynote to the system." Miss Rye's keynote, however, is such letters as she can manage to get from the employers of the children. Writing of precisely the same class of children, Lord Shaftesbury, in a recent letter to *The Times*, says, "With children of this class it is not enough merely to launch "them on the sea of life. Parentless, most of them, and friendless, they must "have some one to advise them how to improve their advantages, but still more "some one to counsel and assist them in circumstances of difficulty or tempta-"tion." With how much force that opinion of the highest authority that can be referred to on such a subject applies to the "parentless and friendless" children placed in service in Canada, you may judge from the fact that about 290 of these children have been removed or returned from *their first places* for precisely the sort of faults, "unmanageableness," "temper," "not suiting," and the like, that especially need the help of "some one to counsel and assist," and to whom such counsel might have proved of inestimable value. Indeed, while the work was still, comparatively speaking, in its infancy, Miss Rye

was herself of opinion that "when the work grew," supervision would become necessary, and she went so far as to suggest that her friends, Mr. Ball and the Rev. Mr. McMurray, both, I believe, "legally appointed "guardians," should be invited, even then, to accept payment for services as visitors. Instead of the personal supervision which every one but herself considers to be necessary, Miss Rye adopts "an extensive system of "correspondence," the result of which she communicates to you in what she calls a "synopsis." Almost all that she now pretends to know about the children is derived from the accounts given to her by the employers. "The method," she says, "that I pursued in obtaining information about the children was to write "simultaneously to the persons with whom I had placed them." Their replies to her letters are the basis of this synopsis. I must say that a less satisfactory "method" of obtaining such information it would not be easy to adopt. In the first place there are 35 cases in which she "can get no replies" to her letters, and so far the "method" of correspondence as a means of eliciting information of any sort appears to be open to objection. Miss Rye is just now of opinion that "no criticism is so severe as that which it is possible for us to apply to our own "labours, and no questioning so keen as the scrutiny by which we query a "creation of our own." I should be more inclined, however, to concur in the view expressed by her in 1872, when dealing it was supposed with the "method" of another worker in the same field. "The extreme absurdity of anyone reporting "upon their own work is so apparent that the proposal to do so is not "worthy a second consideration," was Miss Rye's view in 1872, and certainly the absurdity of inviting employers to tell her how they treat the children entrusted to their care, in order that she may found her reports upon their reports is at least as glaring as she seemed to think it would have been to look for an impartial report "upon their own work" from Miss Macpherson and her fellow labourers. What was not "worthy a second consideration" if done directly by others in 1872, must be accepted as perfectly satisfactory if done indirectly by Miss Rye in 1875. I will go so far as to assume that Miss Rye's letter of inquiry, unlike some that were written to employers of children when my report reached Canada, was in no way suggestive of the sort of answer that it would be agreeable to her to receive. Still it was a letter calling upon people to give their own account of the way in which they discharged their duty to these children, and this account, set off by the artistic contribution of the travelling photographer, Miss Rye accepts, and expects boards of guardians to accept upon "trust," as she says. I would ask you, Sir, to compare that "method" of inquiring into such a subject with the course adopted by your own inspectors under similar circumstances. Compare it with Mr. Henley's "method" in Scotland; with the elaborate process of investigation, almost inquisitorial in its character, which the late Mrs. Senior was of opinion could alone justify any trustworthy conclusions as to the actual condition of children placed out in service. The Committee of the Canadian Government, to whom my report was referred, suggested as the only means of "setting at rest any doubts" about the condition of these children, that either the Dominion Government or the Local Government should make through their own agents "a complete inspection of the children who have been "brought out," and Miss Rye herself, before the same Committee suggested "a house-to-house visitation," as the only means of satisfying opinion in England. Instead of an inquiry of this nature so imperatively called for, Miss Rye contents herself with accepting without question the master's version of his own conduct towards his servant. Though she had herself suggested "a house-"to-house visitation," which might very easily have been made during the last 30 months if it was really desired, she now thinks "inspection of the children of "comparatively small moment," because "if she writes to you or to any member "of your board and asks plain questions, she receives plain and straightforward "answers. The same rule of life governs respectable people, and people of "probity all the world over." Nevertheless I am afraid that even in Canada, as "all the world over," there are people who, if they answer troublesome inquiries at all, are but too ready to take advantage of the credulity of others when it may happen to be for their interest to do so. Let me illustrate what I mean by a single case. If you will turn, Sir, to No. 194, page 16 of Miss Rye's "synopsis," you will find this case: "Elizabeth Lynes, 12. Bound for service. First place "with Mr. W. McKeel, Greenwich, King's County, New Brunswick. Remained

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"in same family till 1873, when she returned to England." Miss Rye of course asked "a plain question," in this as in all other cases, and believes, equally "of course," that she received a "plain and straightforward answer." And possibly she did, but "returned to England" does not tell the whole story. At least the girl herself adds some material facts to Miss Rye's synoptical account. Shortly after my return from Canada I found her an inmate of the able-bodied women's ward of the Wolverhampton workhouse, waiting to be confined of an illegitimate child. Here is her statement as she made it to me in the presence of the master of the workhouse :

"Was taken from the Wolverhampton workhouse by Miss Rye in 1870, landed "at St. John's (as well as she remembers the place), was taken with other "children and women to some institution from which, after a week, she was sent "up the country to service with a farmer, Mr. McKeel, while there was often and "severely beaten by her mistress's children ; wrote to her brother, complaining "of this ; her mistress took possession of the letter, and told her she must write "no letter without submitting it to her ; in her 16th year she was seduced "by her master's son ; her pregnancy being discovered she is taken by her master "to the port, put on board a steamer, her passage having been paid, and sent to "Liverpool with a few dollars in her pocket," to find her way back as best she can to the workhouse from which she had been taken, "to be looked after till "she is 18." I observe that the name of this girl is amongst those who are "either reported or returned to the Home at Niagara for extreme obstinacy "and violent temper." In the synopsis, however, she is reported as having remained in the same family till she returned to England and "did well while there."

Miss Rye complains, and in not very measured terms, of my referring to individual cases in illustration of the effects of her system of providing homes for these emigrant children. How else can anyone fairly judge of the merits of the system? If I refer to a score of cases of children taken to Canada by Miss Rye, and already brought to ruin, I am told that it is unfair to draw unfavourable conclusions from individual cases. There is "great cruelty" in doing so. The cases are "exceptional" (it happens somehow that cases of mismanagement, neglect, and misconduct are usually found to be "excep- "tional"). I ought, it is said, to judge according to "per-centages." That is to say, upwards of a thousand children have been sent out, by far the largest proportion of whom are still below the age of 15. But the "per-centage" of that worst class of failures should be taken, it seems, not upon the number who have barely passed from childhood to girlhood, but upon the total number of all ages. If Miss Rye will have patience for a few years that may be practicable, however deplorable the result ; but for the present I must take the cases as I find them, leaving to those who may be at the trouble to read what I write, to judge for themselves whether the "system" under which such things can occur, indeed must inevitably occur, is one that deserves the encouragement of Boards of Guardians, or should receive the sanction of the central authority. Two children, brother and sister, George McMaster, aged eight, and Annie McMaster, aged 13, were, in 1870, committed to Miss Rye's care by the guardians of the Chichester Union. The boy's story I have already told in my report ; how, after much suffering and hardship, having been twice turned out of doors by his employer, he is found sitting upon his box crying in the street ; is taken into her house by his sister's mistress, a woman in humble circumstances who got him employment with a market gardener close by where I found him. The girl, Annie McMaster, was placed with a Mrs. Gourley, as a "general servant," and if placed by guardians in similar service in England would be considered to be simply a "drudge." One of those "papers," upon which Miss Rye lays so much stress, one of her "forms of indenture," was sent to Mrs. Gourley, but she declined to sign it, and no notice was taken of the refusal. This girl, although in her 17th year, received no wages, nor did her mistress, as she told me, consider that she was entitled to any. From the day she was placed in this service until the day I called to see her—a period of four years—no person had ever been to visit her or to inquire about her. As soon, however, as my report reaches Canada a visit is at last paid, the result of which is thus virtuously recorded by Mr. Ball, the "legally appointed guardian." "The case is one of

"the few we have to record in the list of man's wickedness and woman's frailty;" or, in Miss Rye's more homely English, "Had a child by one of the young "Gourleys." Miss Rye and her friend the "legally appointed guardian," lived within an hour's journey of that unhappy girl's place of service.

A girl named Ellen Evans was sent out from Wolverhampton in the year 1870; Miss Rye informed me that she was placed with Mr. David Beattie, Westminster, adding she was "moved within the last month," that is in August 1874. With reference to that child, however, the following letter was addressed to an officer of the Wolverhampton Workhouse, not "last month," but just a year before the time that, according to Miss Rye's statement, the child was removed:—

"Dear Sir, "London, Ontario, 31 July 1873.

"I now take the liberty to write to you and let you know that a girl, by the name of "Ellen Evans, who was brought to this country by Miss Rye, and it is her request that "I should tell you she was with a family by the name of Beattie for two and a half years, "where she took sore eyes and was blind four months, and only had the doctor once or "twice; and getting tired of her place she came to my house, and I repaired her clothes "and got her a new situation, and she likes it very well; they have taken her to the "doctor, and her eyes are much better; she can see to work in the house, but not to "read or sew. She lost the envelopes and address that was given to her, and she cannot "tell her age, or where she is from. She wants to know if her father is living, Benjamin "Evans, and sends her respects to her uncle and aunt, Mr. and Mrs. Jeremiah Evans. "She is a big stout girl, and very civil and quiet. Please answer this soon. Address "London, Ontario, C.W., Mrs. Alex. Marr. The doctor says it is scrofula that is in "the blood that makes Ellen's eyes sore; he says it will take about 12 months before "they are better. I have a large family of my own, and I had pity on her.

"*Ellen Marr.*"

Such is the sort of "supervision" exercised by Miss Rye over these children. When I inquired about this child at "our Western Home," Miss Rye was wholly ignorant of her change of place, or of the miserable condition to which she had been reduced.

Early in the year 1873, I happened to be present at the meeting of the guardians of the Merthyr Tydvil Union, when an application was read from Miss Rye to entrust to her care some children for emigration to Canada. Objections were made by some of the guardians, but, upon the whole, they consented, and, looking to the fact that the system had been approved of by the Local Government Board, I expressed myself in favour of the application being acceded to. Amongst the children sent out upon that occasion was a girl named Mary Ford, whose address was given to me by Miss Rye as with Mrs. Dallas, Wellington-street, Hamilton. Walking up Wellington-street, Hamilton, in quest of Mrs. Dallas's house, I asked a coloured man whom I met if he could direct me to it, and, to assist him in doing so, told him I was looking after a little English child who was there in service. "Oh!" he replied, "I am glad that "anybody has come to look after her; I have seen that child flogged worse "than a slave; but don't mention me as telling you, for I do all the white-"washing of the house." Upon visiting Mrs. Dallas, who, I was informed, kept a boarding-house for young men, she told me that she had been frequently obliged to punish the child severely; that she was a thief and a liar; she stole money and anything else she could lay her hands on; there was no believing a word she said. She further described the way in which the child had been sent to her by train, with a label pinned upon her breast, "as if she was a parcel of "goods." More than once, she told me, she was on the point of turning the child out of the house. "Why," I asked, "did you not write to Miss Alloway?" (Miss Rye's assistant). "I did write to her, and she took no notice of my "letter." "But Miss Rye is in the country, why did you not write to her?" "I did write to Miss Rye asking her to change the child, but she has taken no "notice of my letter." From the time the child was placed in this service no person had been to see her or inquire about her. I may add, that she left the workhouse of the Merthyr Tydfil Union with a very good character. With this child I had a long conversation apart from her mistress. She admitted quite frankly some of the offences with which she was charged; but there was no mistaking her character—that of an affectionate and very impressionable child. It may seem a trivial thing to mention, but when I spoke to her of her former teachers and associates, of whom I knew something, her eyes filled with tears.

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I am persuaded, sir, that the visit at an early period of a judicious friend, who took an interest in her, might have saved that child from the trouble that I greatly fear is in store for her, as such visits might have saved Annie McMaster and other children from the fate that has befallen them. Before you read Miss Rye's account of this child in her "synopsis," I would ask you to look, in confirmation of my view, at this short letter, addressed to her brother in England not very long since:—

"Dear Edward,—I take the greatest pleasure in writing to you these few lines, as I "suppose that you have long been expecting a letter from me, but you must please par- "don my neglect; give my best love to darling Willie, and tell him that I feel very "anxious about him; I hope that both of you may see better days to come; I hope my "dear sister Jane has been to see you, and I hope, dear, that you are improving in your "lessons, as I feel very anxious about you. I have been very sick for a long time, as "the winter has been very cold, but summer has been very warm, and I hope in time to "come, that I may be able to take you both out of the poorhouse, but I can think "nothing more now, but perhaps, in my next letter, I may have more to say.

[Then follow some childish verses.]

"My pen is bad, my ink is pale,
"My love for you will never fail."—And so on.

"Your affectionate Sister,
"*Mary Ford.*"

Here is what Miss Rye says of Mary Ford in her "synopsis":—"Mary "Ford, 15. Bound for service, 1st place, Mr. Dallas, Wellington-street, "Hamilton, returned; girl unmanageable, mistress impertinent. 2. Mrs. "Sorby, Rice Lake, Ontario; girl returned, absolutely unmanageable; ran "away from the 'Home,' returned to Mrs. Sorby, who sent her back (some "60 miles) by a confidential servant; replaced. 3. Mrs. Bayly, Oakville; "returned to the 'Home' since my return to England; an unmanageable, ill- "conditioned girl, who ought never to have been sent abroad. Illegitimate. "One year-and-a-half in workhouse school. Doing very badly in 1875." That case in all its circumstances, is not an unfair illustration of the method and the consequences of Miss Rye's system of supervision. [The name of this child is erroneously placed by Miss Rye amongst the Bristol children.]

The particulars of another case which occurred after I left Canada, indicates very clearly the hardships to which children may be exposed, and the sort of protection that is afforded to them. Towards the close of 1875, an American lady, Mrs. Barclay, of Buffalo, accidentally heard that a girl named Charlotte Williams, who had been brought out to Canada by Miss Rye, was an inmate of the poorhouse at Lockport. Mrs. Barclay saw her, and was informed by her that she had been placed in service with a farmer, a neighbour and friend of Miss Rye, that she continued there for three years and two months, when she was discovered to be pregnant. (It is not necessary at present to repeat the particulars of the case as they are detailed by Mrs. Barclay, and by a Mrs. Campbell, the wife of a dissenting minister in Niagara, further than to say that Miss Rye's "presumption" as to the paternity of the child was considered to be more than doubtful.) Mrs. Barclay states that she wrote to Miss Rye, a perfectly civil note, in which she expressed regret "that though rightfully dis- "missed, some shelter had not been found for the orphan girl other than an "American poorhouse." The only notice taken of Mrs. Barclay's communication was the following letter addressed to Mrs. Barclay's husband by Miss Rye:—

"Sir, "11 October 1875.

"Are you aware that your wife is constantly interfering and annoying me with absurd "letters concerning matters about which she really knows nothing? Will you kindly "tell me how long I am to bear this nonsense, and why I am subjected to this inter- "ference? The last letter I have received is about a girl, named Charlotte Williams, "aged nearly 18 years of age, who confessed to me before witnesses, and signed a paper "to that effect, that she had had criminal connection with three men (I can give you "their names if you wish them), one of them a coloured man, and we presume the "father of her child, and she certainly left her last situation in the night in his company, "and was seen driving about with him all round Niagara afterwards." [This black man may not have been quite so black as Miss Rye would paint him, for I observe that Mrs. Campbell, the minister's wife, writes to her friend Mrs. Barclay underlining the announcement with exculpatory emphasis, "*The child is born* WHITE."] "If Mrs. Barclay "thinks that I am to turn my Home into a bad house for the reception of such girls

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"during their confinements, all I can say is, she must think so, for I certainly shall "never do it; and if Mrs. Barclay instead of writing insulting letters to me, repeating "village gossip, would open a Home for the 'Orphan' and the 'Fatherless,' about whom "she so pathetically writes, I think it would be much more to the purpose, and probably "you will let me send her the next such case that I hear of. At any rate, I am "thoroughly ashamed of anyone, who like your wife, can make a profession of Chris-"tianity, and yet be as wickedly spiteful and malicious as she is to—

"Yours truly,

"Mr. Barclay, 71 Seventh-street, Buffalo." "*Maria S. Rye.*"

"*P. S.*—I just remember that we have in the Home, an incorrigible 'orphan and "fatherless' girl, for whom we have found 10 good homes. On my return to Niagara I "shall send her by express to Mrs. Barclay, and no doubt she will be delighted to "welcome her."

Whatever may be the merits of that case, I do not think that any person of good feeling and good sense should be satisfied to leave these emigrant children with no better protection than is afforded by the "supervision" of the writer of that letter. The circumstances under which the girl is alleged to have made the confession and signed the paper referred to by Miss Rye are, if authentic, most discreditable to all parties concerned.

In accounting, or trying to account, for cases of children "lost sight "of," Miss Rye has a peculiar way of dealing with facts. Assuming that her responsibility ceases when the girl has attained the age of 18, she either directly questions the age as given by the Board of Guardians, or seeks to convey that the age of 18 was attained at the time that the child was "lost sight of." Thus Harriet Howell, from the Alverstoke Union, certified as being 10 years old in 1871, is assumed by Miss Rye to be "nearly 18" in 1875. In the "Synopsis" this child is described as "a *second edition of Potiphar's wife—an incorrigible.*"

Mary Jane Green (222), Miss Rye states, "Girl 19 years old." It appears, however, that she was 13 years old in 1870. "Had a child in 1874." So that although she may be "19 years old now," she can have been barely 17 when she became a mother.

Mary McNulty, reported by the authorities of the Bristol Workhouse as "industrious and well conducted," is reported by Miss Rye in the "Synopsis" as having "thrown herself on the town." "Girl 20 years old." She may have been 20 years old at the date of Miss Rye's letter to you, but she could not have been yet 18 when she "threw herself upon the town."

Alice Parsons was 15 when taken to Canada, and "bound for service" in 1871. "Replaced herself" the following year, 1872, when she would be 16. That was all Miss Rye could tell me about her, though she is now able to add, "Girl 20 years old." Possibly 20 years old now, or at the date of Miss Rye's letter to you, but barely 16 when "lost sight of."

Another easy way of accounting for a similar class is to take the initials that I have given of particular cases to look out for successful cases that the same initials will fit, and thus imply that I have misrepresented the facts. For example, I have given the initials M. C. as the case of a child who has changed places several times, and whose address is not known. Miss Rye chooses to convey that M. C. stands for Mary Anne Craddock, and refers you to Synopsis 708, where, of course, you will find that the address of Mary Anne Craddock *is* known, and that the child is doing well. Why should Miss Rye suggest that the initials M. C. represent Mary Anne Craddock, rather than Mary Anne Cook (No. 14), lost sight of in 1874? Or Mary Anne Campbell, also lost sight of? Or Maria Cooper (No. 985), brought out to Canada and placed in service in 1873, but address not known in 1874. Why again should Miss Rye suppose that the initials C. C., whom I described as having "left her second "place a year ago, present address not known," represent Catherine Cousens, who is still in her first place, and "doing well," rather than Charlotte Crawley, of whom Miss Rye could give me no information, though I had been told by Mr. Robson, that after some negotiation, she had just consented to pay one-third of the expense of sending the girl to the United States, to avoid the scandal of her being confined of an illegitimate child in the neighbourhood of her place of service—where by the way the poor creature, whose story is a sad one indeed, died in childbirth? The initials E. W. do not, as Miss Rye would assume, represent Emma Western. Why pitch upon that particular name, which does not answer

answer the description that I gave, when she might have taken her choice of several others that did answer it? Emma Williams, for instance (356), whose address was "not known" in 1874, or Elizabeth Waite (405), who had "replaced herself, "not known where;" or Emily Williams (731) "believed" to be still in the place of service indicated. Miss Rye can have no excuse for dealing with those cases in such a way, for after I had stated them, with several others in my Report, I added, "The names in full, the dates of emigration, the names of the "unions from which sent, and the characters given of them by the officers of "the several workhouses can, of course, be furnished." But from the day that Report was written until the present hour, I have not been applied to by Miss Rye, or by any of her friends for the particulars of a single case, or for information upon any statements contained in it.

I think, Sir, I have said enough to support the statements with which I set out.

1. That the children are not selected with a view to fitness, and are unsuited for emigrants.

2. That the conditions of service in which they are placed are unfavourable to them, and that from the mere fact of their being "pauper" children they have to contend against very injurious prejudices.

3. That there is a total absence of efficient responsible supervision in this system of emigration as conducted by Miss Rye.

If I now request your attention to some statements made by Miss Rye that refer more immediately to my own conduct, it is not because I personally attach the slightest importance to them. But accusations of bad faith, of deliberately perverting facts, and of direct falsehood, very freely made by Miss Rye in her letters, and her speeches, and her "synopsis," if left uncorrected, might induce guardians to attach less weight to the statements I have made than they are certainly entitled to.

In a newspaper appeal for subscriptions published in 1875, shortly after my Report appeared, Miss Rye has gravely stated, that of 1,000 children placed in service from the commencement of her work down to 1875, "480, or nearly "half, are in the same homes to-day that I placed them in six years ago." That, undoubtedly, would be a striking fact and at direct variance with statements contained in my Report. You will observe, however, from the "synopsis," that the total number of children placed in service "six years ago," that is in 1869 (the statement having been published in 1875), was only 68, of whom several had already changed places. The general public, to whom the appeal for funds was addressed, have no means of detecting such a misstatement as this.

In her evidence before the Canadian Committee, Miss Rye says: "Another "charge against her was that she put out children in the United States, which "was, according to Mr. Doyle, a deadly crime." I did not refer to this as a "charge," nor did I suggest that it was a "crime." I simply reported, without one word of comment, the fact that "many of Miss Rye's children are in "the States, some of them having been placed in service there, others having "been induced to leave their Canadian service and go over the border." Miss Rye, in her letter to you, now objects to my statement, that "many" of the children are in the United States, and asserts that only 24 out of 1,168 were placed there. In an address, however (a copy of which she handed to me), to the guardians of the Islington Union in 1874, she states that the number placed by her up to that time in the United States is, not 24, as she now alleges, but 42. Although Miss Rye may be allowed to forget in 1875 what she wrote in 1874, she might at least avoid contradicting in one page what she has written in other pages of the same letter. If she had looked through her "Synopsis," she would have found that the number of children placed in service in the United States was not 42, as she told the Islington guardians, or 24 as she now tells you, but 46. I added that, in addition to those placed by Miss Rye, "others had been induced "to go." That undoubtedly is the fact. Be the number, however, what it may, it was surely my duty to communicate the fact to you, and I do not know that I could have done so in terms less open to objection. Had I desired to suggest a "charge" against Miss Rye, I might, instead of confining myself to the bare statement of fact, have reminded her that in taking children to the United States she was violating the condition under which they were entrusted to her, as well

as the rules of the Department, that had sanctioned their emigration to *Canada only*; that it was improbable that the Government of the Dominion, or of the Province of Ontario, would subsidise the emigration of children to the United States; that it was a matter of public notoriety that the Government of the United States had, only a few years ago, emphatically protested against sending pauper children to that country. "While the Government of "the United States," Mr. Secretary Fish wrote in 1872, "is ready to receive "all classes of healthy and sound emigrants, of industrial habits and good moral "character, who voluntarily seek a residence and the opportunity of working "for their own support within its territory, and who come at their own expense "and of their own free choice, it is not willing and will not consent to receive "the pauper class of any community who may be sent, or who are assisted in "their emigration at the expense of Government, or of municipal authorities. "With reference to the particular proposition suggested" (the emigration of pauper children) "it is regarded with disfavour. Children of the ages between "seven and twelve can have and can exercise no judgment or choice of their "own. The statement that they are sought in the hope that their services will "amply compensate for the cost incurred in their care, maintenance, and educa- "tion" ("in view of their future usefulness" is Miss Rye's expression of the same idea) "suggests the possibility of a service which this Government is not "inclined to tolerate." Although in sending children into the United States Miss Rye has acted in contravention of her agreement, she may not have done so to quite the extent she supposes; as I accidentally found in Drummondville, close by "Our Western Home," a child, Isabella Wilson, of whom she had altogether lost sight, and whose address she had given to me as at "Pittsburg, Pennsylvania."

In my Report I referred to the case of a girl, named Harriet Bonsor, as reported by Miss Rye, "upon the town." That lady now writes to you: "Mr. "Doyle, twisting my words about this girl, makes me to report her as '*on the* "'*town*,' while I only said, what I repeat, that I had lost sight of her between 1872 "and 1874." One of the inconvenient results of the delay in answering my Report is, that, through lapse of time, Miss Rye has forgotten some things that are matters of fact, as she seems to remember other things that are not matters of fact. So far from "twisting her words," I simply copied them, "*on the town*," from her own Report, in her own handwriting, now before me.

Reference has been made to my having spoken favourably in Canada of what, at an early period, I had seen of this system, though the tenor of my Report is represented as being unfavourable. I have already explained that before I made any independent inquiry, I placed myself in the hands, so to speak, of those persons who were, in fact, the administrators of the system. Judge Dunkin allowed me to accompany him to see a certain number of the children in the Knowlton District, as did Miss Bilborough at Bellville, Miss Rye at Niagara, Mr. Robson at Newcastle, and Miss Reavell at Galt. It was inevitable that in these visits I should see one side only, and that the best side of the system. I spoke of what I then saw in terms of commendation. There was, I am sure, no intention to mislead or keep anything back; indeed, the information afforded to me at Miss Macpherson's Homes, whether facts told for or against the administration, was most fully and unreservedly communicated. It did so happen, however, that cases to which I have referred as illustrating the defects of the system came under my notice only when I pursued my inquiry independently. If, in accompanying Miss Bilborough, for instance, I saw abundant evidence of care and strictness in visiting, of remarkable tact and firmness in asserting authority on behalf of children, I also subsequently found in the more remote cases abundant evidence of want of care, indeed I must say of actual neglect, which not even the zeal of Mr. Thom could prevent. I hope that explanation will be at least intelligible, if not altogether satisfactory, to those persons who complain of what they appear to regard as inconsistency or partiality.

Miss Rye has repeatedly complained of my having neglected to attend a "gathering" of children at her "Home" in September 1874, to which I had received a printed invitation, the children being collected as she states for my inspection. Re-calling the circumstances, I cannot help being amused by such a complaint, to which I certainly should not think of referring but for the pertinacity with which this attempt to prejudice the authority of my report is repeated.

repeated. Until I read Miss Rye's letter, I was not aware that I had been invited to this gathering "upon the express understanding that the "children were being collected for my inspection." I was all the while indulging the agreeable delusion that I had been invited, not to an official "inspection" of children, but to the wedding of a very charming young lady, Miss Rye's friend and fellow-labourer at Niagara. The only "printed in-"vitation" that I ever saw or that, I believe, was ever issued was one addressed to the employers of the children, suggesting that the mistresses and children should come "in white dresses," as that would help to make "a very pretty "wedding," and (by way, I suppose, of killing two birds with one stone) "show Mr. Doyle what great things Canada can do for poor children." To Miss Rye personally I expressed my regret, several days before the interesting event, that I should not be able to be present, as I had already given a very undue proportion of my time to visiting children in the neighbourhood of her "Home." Nor, if I had been present, is it quite clear that I should not have run some risk of getting a wrong impression of the ordinary condition of some, at least, of these children. For it fell out that a few days before this exhibition, I visited at London one of the children, Emma Bennett, who had been placed as a servant with a working bricklayer named Webber. He and his wife appeared to be very kind, decent, hardworking folks. But the place was altogether unsuited to the child, as the child was to the place. The man had written to Miss Rye that he wished to return the child, as he could not afford to keep her, and got for answer that he must fetch her himself. Being but a working-man, and just then out of employment, that was impossible. Equally impossible was it for his wife to accept Miss Rye's printed invitation, which she had just received, to accompany the child, both in white dresses, to the "gathering." If they had gone, and I had been present and observed the honest bricklayer's wife with the poor little seven-year-old mite whom I had just seen grubbing in a dustbin, I should doubtless have been expected to accept them as witnesses in white dresses "of what great things Canada can do for poor children"—for the "refuse of the workhouses," as I saw these same children designated in an account given of this "gathering" by one of the most influential news-papers in Canada.

Undoubtedly, Sir, Canada can do great things for poor children, not however by the indiscriminate deportation of such children as guardians may desire to get rid of, but by the gradual and not too hasty development of a well-organised system, such as that which appears to be now established by Miss Macpherson, and for the same destitute-class. It is not, however, for "pauper" children that this sort of public aid and sympathy should be invoked. Every board of guardians in the kingdom has the means of training pauper children, so as to fit them to supply the demand for labour of every description, especially in domestic service. And recent inquiries have proved beyond question the general success for this purpose of workhouse education, and shown what commendable efforts guar-dians are making throughout the country still further to improve it. It is not, I repeat, for workhouse children that emigration is needed, or should be encouraged. It is otherwise, however, with the very young destitute children who are not "paupers," but may be said to be the raw material of our criminal classes, and who swarm in our cities and large towns. With reference to the position in Canada of that class of children, it is, as I said in my Report of 1874, "the "most perfect realisation of the principle of boarding-out that can be well "conceived." But for that class of children the supply of homes is far indeed from being inexhaustible. I believe that from Miss Macpherson's Distributing Homes at Knowlton, Belleville, and Galt, all the homes that are really available might be found for such destitute children as could be sent from England with advantage, either to themselves or to the Dominion. For it would be a very great mistake, and would be simply misleading guardians, to say that the people who take children are all, or even a majority of them, those "simple country "folks" of whom Miss Rye speaks in her letter to you. Miss Rye knows per-fectly well that a very large proportion of girls taken out by her are either directly placed in cities, towns, and villages, or find their way there after a little while. She knows too, or ought to know (she has experience of the fact every year), that children so placed are exposed to the greatest danger. This is the uniform testimony of every unprejudiced person who has had to do with the distribution of these children in Canada.

Miss Rye has taken a good deal of trouble to contradict a remark which I made at the close of my Report, to the effect that I had been informed that she had taken up so large a number as 50 children for distribution to New London. She has got an affidavit and other evidence to contradict the statement of my informant as to the number of children so taken up. I observe, however, that what she contradicts with reference to New London is nevertheless perfectly true with respect to Chatham. Her friend Mr. Stephenson, M.P., states that in the year 1874 she brought up from 50 to 60 children to Chatham, the greater portion of whom were taken to their new homes "immediately upon their arrival in town." The way in which these new homes were obtained for them was described to me, in the presence of a local magistrate, by two of the children and the mistress of one. The children, from 50 to 60 of them, were ranged round the Public Hall, on view, with their backs to the walls, while persons seeking them came in one by one, and selected the child to which he or she might happen to take a fancy. Now, if that were an objectionable way of disposing of these children, it matters little whether the circumstance occurred at Chatham or at London, and it would have been less uncandid to have stated that the circumstance to which I had referred occurred at Chatham, and not at London, instead of parading an affidavit which was calculated, if not intended, to give the impression that it had not occurred anywhere.

In my Report, I observed that, "whereas at least 90 per cent. of the pauper "children who are sent as emigrants to Canada, have been brought up as "Members of the Church of England, full 90 per cent. of those placed out in "the country attend the places of religious worship, when they attend at all, of "some denomination of Protestant Dissenters, Presbyterians, Methodists, "Baptists, or of Bible Christians." That statement I must again bring under your notice, as I observe that considerable pains are taken, not to contradict it, for it cannot be contradicted, but to misrepresent the object with which it was made, and by that means, to divert the attention of guardians from a matter that some of them at least will regard as important, and which at all events ought not to be kept back from any of them. Every pauper child that Miss Rye has taken from this country, being a member of the Church of England, would, if kept at home, be brought up in communion with the Church of England. The law so provides, and guardians are careful, as a rule, to protect that legal right of the child. But under Miss Rye's system, the security of the "Creed Register" is set at naught, and the provision of the law completely disregarded. It is not through carelessness, still less, I need hardly say, from design; but owing partly to the position of the Church of England in Canada, still more to the condition of society in a sparsely populated and peculiarly "settled" province, that so large a proportion of these workhouse children are so placed, that either they do not attend any place of religious worship at all, or when they do, it is not of their own denomination.

I stated in my Report of 1874 that the receipts upon account of pauper emigration during the years 1873 and 1874 very considerably exceeded the expenditure.

For having made that statement I am accused, and I must add abused, as having imputed mercenary motives as alone influencing those who are engaged in this work of emigration. I attributed no motives. I made a specific statement, and by that statement I abide. The audit of accounts "from the beginning," in which public subscriptions and contributions by guardians are mixed up, and credit appears to be taken for the purchase out of these funds of property which elsewhere Miss Rye states "was bought by her own money, "by money which she earned by writing for the press in England," all this has nothing whatever to do with the statement that I made, although it may divert attention from it. With reference, however, to this Western Home, I find the following question and answer in Miss Rye's examination before the Committee:—"*Q.* Mr. Doyle "states that the 'Western Home' of Miss Rye, at "Niagara, is the old gaol of the town, bought for Miss Rye by subscription, and "so altered and improved as to be in many respects a suitable building; "please state whether the Western Home was so purchased, and if not, how it "was purchased?"—"*A.* The house was not bought for me; it was bought by "money which I earned by writing for the press in England." I can only say that

that I had no intention of conveying any reflection upon Miss Rye; I but repeated a statement which she herself had made. In a letter to the Local Government Board of 10th June 1872 she says, "The moneys which purchased "and furnished our Western Home came by public subscription." It now appears, however, that it is her private property bought by her own money.

I did not, Sir, as you are aware, enter upon the question of expenditure voluntarily or officiously. It was referred in the papers communicated to me as instructions for inquiry. I ascertained before I left England that the amount for which the Local Government Board had issued orders gave an average of, at the very least, 8 *l.* 8 *s.* per head. Miss Rye now asserts that the amount was only 8 *l.* per head. Giving her the benefit of the difference, 8 *s.*, you will see, Sir, that I do her no injustice in the statement that I made. In order to make that statement as accurate as possible, I repeatedly asked Miss Rye to furnish me with information as to the cost of maintenance in her home, of her other expenditure, and of the assistance which she received from the Governments of the Dominion and the Provinces. Of not one of these items could I succeed in obtaining from her any information whatever. Failing to get the information with reference to the assisted passages of the children, I applied to the Agricultural Department at Ottawa, and the statement in my Report which is objected to is copied word for word from a letter addressed to me by the secretary. In her printed letter now addressed to you, Miss Rye states that vouchers for each item of expenditure were handed by her to the Dominion Government for examination, "after I had declined the work in Canada." Here is another instance of Miss Rye's forgetfulness of facts. I did not "decline the work in Canada." More than once I told Miss Rye that I was prepared to undertake it if she would produce the vouchers. She told me the only thing she could produce was her banker's book, but that she would endeavour to give me the others. Not having obtained them, I wrote to her immediately before I left Canada renewing my former application. Not until long after I had left Canada, and my report was printed, did I receive Miss Rye's answer. In it she says:—
'I blush, when I look at the date of your last letter, but soon after you left
"Canada I was sick, very sick, the reaction I suppose from the over-exertion
"and worry of this last past summer; since I am well again, I have been
"trying to make time to copy out my accounts, which at present, as I told
"you when here, are all in bills, and my cheque-book. I have not succeeded
"in doing so yet, but all being well, I will, for I must do so." Yet, notwithstanding that letter, she now asks you to believe that I had absolutely refused to examine these vouchers in Canada. I am sure, Sir, that I did Miss Rye more than justice when I wrote in my Report that as to her receipts and expenditure she was "prepared to give the fullest information," as I did myself less than justice when, certainly from no unfriendly feeling to Miss Rye, I refrained from stating the facts more fully than I did.

With this explanation of the fruitless efforts that I made to extract information from Miss Rye, I submit to you a statement of the grounds upon which I was, and still am, led to conclude that the receipts upon account of pauper emigrants in 1873 and 1874 would very considerably exceed the expenditure. The statement would stand thus:—

Receipt.				Expenditure.			
	£.	*s.*	*d.*		£.	*s.*	*d.*
Paid by Guardians (exclusive of a full outfit of clothing.)	8	–	–	Passage from Liverpool to Home.	3	15	–
Bonus by Ontario Government.	1	4	–	Assumed cost per head of each Child at the Home.	1	–	–
				Profit on each Child -	4	9	–
£.	9	4	–	£.	9	4	–

It is of course possible that Miss Rye may have devoted the profits upon the emigration of "pauper" children to assist the emigration of street children, just as I intimated that Miss Macpherson did with repayments of passage money.

To one item in the preceding statement I desire to call your attention. I give Miss Rye credit for 1 *l.* as cost of maintenance at the Home *upon every child taken out.* Now, as a very considerable number of these children never set foot in the Home at all, no fewer than 192 going no further than "New "Brunswick," Nova Scotia," or "Halifax," the allowance will amply cover what in poor-law accounts is known as "establishment charges." I observe, Sir, that Miss Rye's suggestion now is that English boards of guardians should entrust to her 1,000 girls per annum for the next 10 years, paying not 8 *l.* but 12 *l.* per head.

Miss Rye, in her letter to you, lays stress upon the assertion that she has "lost sight of" only 28 children "*of the age of* 15 *and under.*" Even that is bad enough, considering that of children taken out in the last six months of 1873, 12, all of tender age, were already "lost sight of" within the following year. But the fact to which Miss Rye omits to call your attention is far more important than is that to which she refers. How many children lost sight of are *above the age of* 15 and under 18? It is at that age, as Miss Rye states, that children are subject to "freedom fever" become "restless," "discon- "tented," and "disaffected." The number of that age who are "lost sight of," Miss Rye does not think it necessary to state. It appears, however, to be no fewer than 100!

Bearing in mind that so large a proportion of these emigrant children are "lost sight of," "reported or returned to the Home for extreme obstinacy and violent temper," are mothers of illegitimate children, some of them seduced by their masters or their master's sons, and that others are for one cause or other unfit for service, it may be reasonably asked whether, instead of adding to the number, some efficient means might not be even now adopted for the protection of those who have been already sent out.

It does not appear to me, Sir, to be necessary to say more in confirmation of the statements and opinions that I submitted to you in my Report of 1874. It is possible that some few applications to sanction emigration may yet be made to you under the influence of representations which are reported in public journals as having been made to boards of guardians, and which are certainly very little creditable to the candour of the person who is reported to have made them, or to the good sense of some at least of those who support them. Writing to you, Sir, it is hardly necessary to notice misrepresentations of such a character as that I was compelled to resign my office as Inspector of your Board in consequence of official disapproval of my Report, or that you, notwithstanding that Report, are satisfied with the system of emigration to which it refers. I cannot believe that any board of guardians in the kingdom, when informed of the conditions and results of Miss Rye's present system of emigration, would ask you to sanction the emigration of another child under it. In conclusion, Sir, I have only to assure you, that in making the inquiry that you entrusted to me, I spared no pains to fulfil your instructions, to carefully ascertain the facts connected with this system of emigration, and to submit them to you fairly, and in sufficient detail, to enable you to judge of its merits.

I have, &c.
(signed) *Andrew Doyle.*

The Right Honourable G. Sclater-Booth, M.P.,
President of the Local Government Board,
Whitehall, London, S.W.

PAUPER CHILDREN (EMIGRATION TO CANADA).

COPY of the Reply of Mr. Doyle to Miss Rye's Report on the Emigration of Pauper Children to Canada.

(*Mr. Morgan Lloyd.*)

Ordered, by The House of Commons, *to be Printed,*
13 *June* 1877.

263.

Under 2 *oz.*

PAUPER CHILDREN (EMIGRATION TO CANADA).

RETURN to an Order of the Honourable The House of Commons, dated 27 July 1877;—*for*,

COPY "of LETTER addressed by Miss *Rye* to the President of the Local Government Board, referred to in Mr. *Doyle's* Reply thereto, of the 14th day of May last, already presented."

Local Government Board, 2 August 1877.

JOHN LAMBERT, Secretary.

THE EMIGRATION OF PAUPER AND OTHER CHILDREN TO CANADA.

To the Honourable *Sclater-Booth*, President of the Local Government Board.

Sir, December 1876.

AT last I have the honour of placing before you my papers and figures relating to the children whom I have between the years 1869 to 1874 (both inclusive) taken to Canada from various workhouse schools in England, and from this "Home," from which I date.

The long delay that has elapsed since the appearance of Mr. Doyle's Report upon my work, and this my answer to the same, demands an explanation.

The apology and the explanation are both contained in the papers I now lay before you.

Time and labour, a long time and constant labour, have been needed for one pen to collect and arrange such a mass of information as I now offer for your consideration. Moreover, as all ships, no matter how well appointed, or how strong, stagger under sudden storms and cross seas, even when clever captains command and strong men stand at the helm, so I staggered for a long, long time, and grew more than sick at heart when your Inspector's words, written in England, so absolutely reversed his *vivâ voce* declarations made while in Canada about this work, not only to myself, but also to many and influential friends in Canada.

Some months, Sir, had to elapse before I could see any sense in endeavouring to establish facts as well known in Canada as that night succeeds day, or the mortality of mankind, and I should quietly have left my post in despair had I not at length fully realised the great injustice done to the hundreds of Canadian families who have equally with myself struggled with and for these poor little pauper children. (I need not say anything about the injustice done to myself, for the great glory of all true work is that *in* the keeping of His commands THERE is the reward, and a thousand Mr. Doyles could not touch me upon that point.)

Now I suppose no criticism is so severe as that which it is possible for us to apply to our own labours, and no questioning so keen as the scrutiny by which we query a creation of our own. I am thankful now that I have tested my work to the very uttermost, for in the testing it I have found that the heart of Canada is with me, and that the capabilities of the expansion of the work are even greater than I had previously imagined.

The great point which I find so difficult to make you, your predecessors in office, and the general public understand, is the class of Canadian men and women who come forward to take our children. If you could only understand and realise the substantial, orderly, comfortable, and well-established class of people who are the custodians of these children in Canada you would the better understand the enormous boon you are placing within their reach, and why I think inspection of the children of comparatively so small moment, and the

 reason

reason I have so largely used correspondence as a means of oversight of the young people when once placed out. If I write you, if I write any member of your Board, and ask plain questions, I receive plain and straightforward answers. The same rule of life governs respectable people and people of probity all the world over, and I have no more reason to suspect trickery from my Canadian than from my English correspondents, and a four, five, and even six years' correspondence, as mine has been in many cases in Canada about the children, should surely teach a woman of fair average intelligence who may, and who may not be trusted. Acting, then, on this trust, and on this experience, the method I pursued in obtaining the information about the children which I now lay before you, was to write simultaneously to the persons (over 1,100 in number) with whom I have from time to time placed the children, asking if there had been a general migration of the girls, of which I had not been informed, or if the young people were, as I believed, still where I had placed them. With a very few exceptions, the whole of these guardians answered my letters, and at their own expense, in 500 different instances, were good enough to have their boy or girl, as the case might be, photographed, that you, the Guardians of the various Unions, and the English public generally, might have an opportunity of comparing the appearance of these poor children, after a four or five years' residence in Canada, with that of the ordinary pauper young woman found in all our English workhouses.

I have now the pleasure of laying before you, for your inspection, these 500 photographs, together with an arranged copy of all my correspondence on the subject (all letters bearing date of 1875). As the expense of printing these letters would have been more than I could afford, and as the mass of information is very bulky, I have, for your greater convenience, and in order to be able to lay a copy of the same before all the unions (50 in number) who have entrusted children to my care, prepared a synopsis of all the English and Canadian information in my possession about these children; and I think there are few, if any institutions, even with a full staff of officers, that could offer you a similar six years' following up of their children, and certainly no institution that could show the same results.

I may have no set plans, no rules, and no sharply-defined policy about overlooking the children in Canada, but if I can tell you where they all are, what they are doing, and prove that the average of their doing is very largely well-doing, am I to be condemned and my working derided? Is that honest or wise?

Possibly you may have overlooked the last Report (1876) made to the Government on the Reformatory and Certified Industrial Schools of England—I quote from a recent notice in *The Times* *—by which it will be seen that over 900 † children have within the past 12 months absconded from these schools! and over 700 have died!—a remarkable easy way of accounting for 1,600 children. Yet on paper these schools are perfect, their rules faultless, their expense monstrous, their inspectors and officers numberless, their results—well, their results are *nil!* and that, I believe, owing in a very great degree, to the multiplication and to the elaboration of the rules that govern them; and my own impression is that we have succeeded in Canada simply because we have to a very large extent, if not entirely, thought out and dealt with each case separately and individually.

The great mass of the Canadian peoples with whom I have to deal are simple country folk, who have treated me exactly as though in some mysterious manner I had been the mother of the whole 1,100. I have been expected to rejoice in all the well-doings of the children, even to inspecting patterns of new dresses, sent on many a long mile by post, and certainly have had to bear more than my share of their shortcomings, and to be responsible for all their misdemeanours, for no one can carefully examine my synopsis of the work without seeing how thoroughly I have had to bear the burden of the children's sins, and probably I should never have ventured on the work had I known fully all that it involved.

My own impression, before practically dealing with this work, was, that if I took great precautions to secure really good homes for the girls, my labours for them

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* 19th August 1876.

† The exact numbers are, 898 absconded, 719 dead, 1876, from Reformatories; 147 dead, 68 absconded, Certified Industrial Schools.

them would then nearly, if not entirely, cease, and so my time, money, and strength would be at the absolute disposal of fresh children.

Practical experience has shown me that I was in a measure mistaken on this point, and that a certain per-centage of the girls require to be removed many times before they will settle down to life-work. Mr. Doyle's great cruelty consisted in quoting these cases as representative, and not as exceptional. Even these exceptional cases may be subdivided. For instance, a girl may have two, possibly three, homes found her, into neither of which can she be fitted or comfortable, for it must always be remembered that the whole of these children have strongly marked characters and developments; but the majority of these exceptional cases are the cases of girls returned for violent temper, laziness, insubordination, and tendencies to immorality (very little petty larceny). It will be seen from the Synopsis that we have placed out such girls, three, five, eight, ten times over. Now, will any one in their senses suppose that the latter placings out of such a girl can equal the first start in life? "Whatsoever a man sows that shall he also reap," is as literally fulfilled now as on the day when first penned, and the latter end of such girls is worse—lower and lower place by place—than at the beginning. Am I expected to overturn and reverse the guidance rules of the world simply because I carry children to Canada? There is also, however, this great fact to be borne in mind on this point, that in Canada we *can* get ten places for such girls; here in England after a first, and certainly after a second, failure in a situation we all know the pauper child finds herself an inmate of the house, and shut up and shut off at 15 or 16 years of age from almost any hope of respectable service. At any rate we are not in that position in the colonies. The work of the future, for I sincerely hope and trust there is yet to be a great future for this work, should, I confess, involve a separate Home, with strict discipline for these exceptional cases. They may be and are remarkably few in number, but yet requiring the utmost vigilance and closest care; neither is it advisable that such children should be in the same Home with the newly-arrived children, not only because of their evil communications, but because the management and discipline of the Homes should be so different, and such a subdivision of children will simplify matters materially.

I gather from Mr. Doyle's report that one of my great failings in this matter has been the failing to secure the affections of this vast army of children. Poor little things, had such a feat been possible, perhaps I might even have attempted it, and certainly it would have been very easy to have made the profession; but, to say nothing of the uncontrollable nature of our affections (the children's as well as my own), think of the variety of natures, dispositions, talents, tempers, for one woman to fit into; think of the cruelty such a course of proceedings would have involved for the children, of the injustice to the foster-parents and guardians, of the parting agonies for myself and the little ones, of the time required to win so great a boon, of the inevitable separation with the ever-increasing circle of friends that surround these children; it seems to me that I have exercised a truer wisdom and a better discretion in remembering that no woman, however devoted to her work, or, if you will, loving and large-hearted, could be the centre of a thousand young lives; and that I have been contented to decrease in the children's regard and affections that the foster-parents and guardians should increase, and gain all their confidences, commends itself to my mind as the best and most honourable and kindest course I could have pursued.

We may take also the opposite side of the picture, for at 15 or 16 nearly all these young people have what I call freedom-fever; they are restless, discontented, disaffected—with me? yes; with themselves, yes; and with everything and every one else; *just as foolish as you and I were at their age, and just as unreasonable.* Then they all need counsel, plain advice, possibly liberty to go where they will. It becomes a choice of evils. We have to deal with each case as occasion needs. Am I their enemy because I tell them the truth? Or can any reasonable person suppose that we can plant out these children in rows like poplars and expect them to remain growing where we place them till decay comes on and ends all? The miracle and the mystery to me is that so many of the girls are doing so well, and that after all the plain dealing and plain speaking I have had to use, not that so few, but that so many, do love and respect me. I was greatly touched, and I am sure you will not fail to be struck, with the

hundredfold iteration of "respect" with which nearly every letter that I now give you concludes.

Your Inspector tells you of the terrible hardships he had to endure from impassable roads to reach the homes of the children. I can also tell you that on the 14th September 1874, over 300 of these young children had at any rate sufficient affection for me to travel over these terrible roads to pay me a visit at the "Western Home." You are also, I believe, aware that Mr. Doyle, although invited to this gathering previously a fortnight before, and with the express understanding that the children were being gathered for his inspection, did not favour us with his company, although the Bishop of Toronto, the Archdeacon of, and the Member for, Niagara, together with several Justices of the Peace, were good enough to attend to meet your representative.

Now, Sir, I am sure that you are anxious to reduce pauperism; nearly all your efforts since coming into office have been in that direction; therefore, the better to commend my own special work to your favourable notice, I beg to draw your attention to the following extract from Mr. Froude's *Short Studies on Great Subjects*:—

"The colonies will not take our paupers; and as we make our beds we must "lie in them; but we can prevent pauperism from growing heavier upon our "hands. If we send our able-bodied men with their families to settle upon "land, we must support them also till their first crops are grown. If we advance "money for other people's benefit we expect to be repaid, and cannot see our "way to obtain security for it. But there is not the same difficulty in providing "for the young. When Mr. Forster's Education Bill is fairly in work, in one "shape and another we shall have more than two million boys and girls in these "islands, of whom at least a fourth will be adrift when their teaching is over, "with no definite outlook. Let the State for once resume its old character and "constitute itself the constable of some at least of these helpless ones. When "the grammatical part of their teaching is over, let them have a year or two of "industrial instruction, and, under understanding with the colonial authorities, "let them be drafted off where their services are most in demand. The settlers "would be delighted to receive, and clothe, and feed them on the conditions of "the old apprenticeship. If the apprentice system is out of favour, some other "system can be easily invented. Welcome in some shape they are certain to "be. A continued stream of young, well-taught, unspoilt English natures "would be the most precious gift which the colonies could receive from us."*

As my labours for the children commenced in 1869, my work antedates Mr. Froude's words—by three years—and that that work has not been altogether such a failure as Mr. Doyle would have you believe, is shown by the fact that my scheme has already found the following imitators—viz., Messrs. McPherson and Bilborough, with their Whitechapel and Belville Homes; the Rev. Styleman Herring, who took, in 1870, children from the Holborn Union to an orphanage in Brantford; the Rev. George Rogers, who received and placed out in New Brunswick women and children from the Bristol Union; Miss Fletcher (for the Roman Catholics), who has carried women from Liverpool workhouse to Ottawa and Montreal; the Rev. Bowman Stevenson, with his Lancashire and Hamilton Homes; Dr, Middleton, with his Birmingham and London, Ontario, Receiving Houses; and Mrs. Burt, with her Liverpool and Nova Scotia workings.

Surely it is contrary to all our experiences to have so many followers of a failure. Is there room for us all in Canada; is there any fear of collision or jealousies? No, a thousand times no! Canada can take all the children we can all of us bring, and find homes, and plentiful homes, for them all; the limit is in ourselves and not in Canada. But you will say, why Canada above all our other colonies? I will answer you by calling to your memory the fact that some 30 years ago the emigration of pauper children was commenced to the Cape. I have every reason to believe from private papers I have seen that that work was a far greater success than has been generally believed; but in the days to which I refer postal communication with the colonies was both expensive and uncertain; the cable did not exist, and exaggerated reports upon isolated cases, alas! as rife then as now; but there existed then as now an insuperable objection to my mind to anything like a large emigration of pauper children to the Cape. I allude to the great preponderance there of coloured peoples, and to this

* "England's War," Vol. II., p. 510, 1872.

this great drawback may now be added the equally objectionable increase of riches, which has necessarily destroyed the simplicity of the homes there, and the home-life which makes the earthly salvation of the child. This same fatal objection of wealth applies equally to Australia and New Zealand; wealthy and luxurious homes are no places for untaught and untrained pauper children; houses where many and educated servants work can never in our colonies, any more than in England, receive such children; while the working settlers in these two latter-named colonies have not been long enough in those countries to be sufficiently raised above their own class to have tone and moral power enough to guide, control, and soften such children as those we have to deal with; even if this were not the case, the distance in these two latter-named colonies makes a difficulty; money, I know, can bridge that over, but writing as a ratepayer, I remember the fact. These, then, are some of the reasons that have determined my location in Canada, viz., easy access, the voyage being rarely longer than 14 days, and very frequently only 10, the absence of great wealth, the "neither poverty nor riches" of contentment, the freedom from admixture of races, and a settlement in the country of a people, whose residence can count by generations.

Of the healthiness of the country there can be but little doubt, when I add that my death-rate, 15 in six years out of 1,100* children, with six of these deaths accidental, more than realises Dr. Richardson's hypothetical Hygeia; my medical and drug bill, which I have printed separately, also testifies to the extraordinary health of the children while in Canada. I especially wish to draw your attention to the fact mentioned on page 1 of Miscellaneous Particulars, that 16 of the workhouse girls in the past six years have had illegitimate children, while not one of the stray or Peckham girls, whom Mr. Doyle is so afraid will corrupt the pauper children, has so disgraced us or herself. I have also at No. 5 of Miscellaneous Particulars given you the names of the children (with the unions from whence they came) who have been returned to the Home, or reported for violent temper and extreme obstinacy, for all of us who have had to deal with the children have been greatly struck with the similarity of their disposition and failings in this respect, and we cannot but conclude that there must be some radical error in the training of any body of children that can produce so uniform and so disastrous a failing.

The names of our ships given at No. 7 of Miscellaneous Particulars, will show you that we have sailed in the finest steamers afloat, and that we have never changed our service. As not only Lord and Lady Dufferin, Lord and Lady Monck, Lord and Lady Lisgar, but even one of our Royal Princes, have sailed in these very same steamers to and from Canada, I trust you will not be dissatisfied with the choice I have made for the safety and accommodation of your children. With regard to my ship matrons—Miss Smythe (now Mrs. Soffe), Miss Weale, Miss Hunt, and Mrs. Willis—all are officers in the service of the Government Emigration Department (late Park-street, Westminster), and one of these officers—viz., Mrs. Soffe—has crossed the Atlantic with me seven times. Being the *employées* of the Government should in itself be a guarantee that these matrons are all that could be desired; and it is surely a work of supererogation on my part to say that I have been fully satisfied with their services. On page 4 of Miscellaneous Particulars, you will find the names of the house matrons and servants at Niagara during the six years of my residence there, as opposed to Mr. Doyle's statement, that at this (*sic* the Western Home) Home there is "a paid matron and one servant."

I am very willing to confess that I have been under-officered, and that I should have been very thankful for more money to have enabled me to have secured more workers, but it is incomprehensible to me by what rule of proportion or division four servants can be reduced into one, the more so when I know that Mr. Doyle saw personally and separately while in Niagara all the servants whose names are printed under the date 1874, asked them how long they had lived with me, and the wages I paid, and I cannot but remember, in connection with this subject, a speech of your Inspector's, for which the ratepayers, at any rate, will not thank him—viz., "that when the Government carried on this work, they would spend thousands where I had spent hundreds."

You

* *See* Miscellaneous Particulars, p. 1, No. 3.

You will see by referring to Miscellaneous Particulars, page 2, section 4, that in the six years' working of the scheme I have lost sight of 28 of the children under 15 years of age. I am grieved to have to make the admission, and the remembrance that 900 children have in England slipped through the hands of the Reformatory officials in one year, gives me little consolation; but I think I may add, that if I had the time, the money, and the strength to travel personally to these 28 homes, where we originally placed the children, we should be able to find them all. Constant changes in the postal arrangements of a new country cause us some losses, the removals of some families, and deaths in others, with omissions to send on notice of the same to the parent Home, all help to swell this list, and I know of no perfected workable plan by which we could establish a complete espionage of all the children in Canada any more than here in England.

You must kindly remember two facts, in some cases the children themselves remove themselves, on purpose that it shall not be known that they have ever had anything whatever to do with Miss Rye; Miss Rye, unfortunately, being the last link connecting them with their workhouse life and the shame of their extreme poverty. Foster-parents, on the other hand, are many of them extremely tenacious of the children's affections, and of the respect paid to their foster-children. Where such is the case my visits are extremely unpopular, touchingly so; and persons have removed in order that neighbours may not know the antecedents of their children. At this very moment there is a good, motherly, middle-aged woman in the West, who expects me to bring her out by my next voyage a brother and sister of four and five years of age, whom I am to convey to her without the knowledge of any of her neighbours! The question is often put to me, Are all, or the majority of the people in Canada who take the children childless? I answer, No; most decidedly the childless people are in a very large minority, but people marry very young in the colonies, and their children follow the parental example. The result is small families as a rule, and the dispersion of families, which is a natural condition of colonial life; the younger members stretching on and on into the West and the great far Nor'-West. So, as I have before explained, at 40 or 45, the comfortably-settled farmer and his wife find themselves once more alone in life, and, to quote their own words, "We don't think, Miss Rye, that we're too old to bring up another family, and should like a little one about the place." If I were to tell you honestly what I consider the truest danger that our young girls run, I should say their most real danger is the over-indulgence and laxity of discipline, both from the foster-parents and from the guardians or mistresses of the working girls. For a few years I am sure this was the case. No one dared to correct a girl for wrong-doing, partly from extreme sensibility and sympathy with their orphaned and stranger condition, and "We have brought her back to you, Miss Rye, to correct; we wouldn't whip another man's child," has been said to me by a hundred Canadian men and women when bringing back girls who have driven these plain people almost crazy by their tricks.

In making my Synopsis I have used the following expressions, "Adopted," "Bound for service," and "Bound for service, but practically adopted." By adopted, I mean exactly what the word says, the child becoming in every sense and in all ways the same as a child born in the family. As a rule, we never allow a child over nine years of age to be adopted. I have a few exceptions to this rule, where the child has shown great delicacy of constitution, of temperament, or taste, and where I have been particularly careful to see that the proposing foster-parents intended especially and fully to carry out their promises.

Children who are bound for service are placed with working people for the express purpose of learning how to become working women themselves; these are of 10 years of age and upwards. I need not again state to you the particulars of the adoption indentures or of the apprenticeship indentures, as you have both fully and correctly copied in Mr. Doyle's Report; but on looking over my Synopsis you will see that I have, as far as age is concerned, deviated from my rule of age for apprenticeship as I have also from my previous rule of age for adoption, and from the same reason, working in a diametrically opposite way. There are, as you cannot fail to have observed, among these poor workhouse children, girls of seven, eight, and nine years of age, of so rough a build and so low a type that you can surely forecast their future by being with them even for a few hours; such children, the born hewers of wood and drawers of water; could never by any amount of care or culture become cultivated or refined

refined women; we must bring them up to manual labour; and as some mistresses do not mind the age of the child, I have used my discretion in placing such children where they will be taught to labour with their hands, little by little and step by step.

The expression "Bound for service, but practically adopted," used now in this Report for the first time, is used to describe to you another class of home, and another condition of service which evidently puzzled Mr. Doyle, and led him to the conclusion that there was a third apprenticeship. Girls bound for service get into two classes of homes—the home where there is very probably another servant, possibly two, and even a third kept; in such a family, the servants, including of course, my girl, all take their meals in the kitchen together as with ourselves in England. In cases where I have used the expression, "Bound for service: practically adopted," the girl has been bound for service into a class of family where the mistress and the maid work together, and where the whole family have their meals in common; or the family and the girl may be all of one rank in life; or again, the girl herself may be of so superior a character that the family, out of affection and respect, may raise her to share their comforts and luxuries, while her indenture of apprenticeship has never been altered, and she gets wages as any other ordinary servant.

The English information I give you about the children, is derived from the books of the clerks of the various Unions, and I am not altogether displeased to notice that these returns are very often defective, so that my Canadian books find their duplicates in English registers? In all cases where I could get no answer to my queries, I have initialled my conjecture as to child's age, &c., (M.S.R.)

I must, however, be allowed to say at the same time that I have at all times received the very greatest assistance and courtesy from the clerks of all the guardians from whom I have taken children, and from masters of all the schools; and I am not quite sure that I ought not to add, in many instances, I should never have had children from the Unions, but from the more than cordial co-operation of these gentlemen.

You will see by my papers that hitherto I have taken boys and girls. I desire to say that I trust the emigration of both sexes will still continue; but that should you allow me to continue the work, I wish exclusively to devote my time and attention to the girls. And should you ask me why, I shall point you for one reason to the following table:—

"HOUSE OF CORRECTION, WESTMINSTER."

A RETURN relating to the Number of Prisoners committed to this Prison for Drunkenness during the Year 1875.

Calling themselves Charwomen - - - - -	850
„ Needlewomen - - - - -	796
„ Washers and Ironers - - - -	1,330
„ Servants - - - - - -	166
„ Sewing Machinists - - - -	35
„ Bookfolders - - - - -	30
„ Artificial Flower Makers - - -	28
„ *Of no Occupation* - - - -	1,796
Women of respectable class (such as wives of men with comfortable homes, and women of small independent means) about - - - - - - - - - - -	100
Total - - -	5,131

EXTRACTS FROM POLICE REPORTS.

NUMBERS of Women committed for Drunkenness and Immorality during the Years 1875 and 1876.

1876. Westminster - - - - - - - -	5,131
„ Manchester - - - - - - - - -	8,276
1875. Liverpool - - - - - - - -	7,073
Total - - -	20,480

Let the ladies of England especially remember that all these women were once young girls, and that we shall never have servants enough to meet the present demands of society unless more young girls are taken by the hand and trained, as was once the case in England, separately in private families. Orphanages and Homes do something, but in reality they do not touch more than the skirts of the question.

Yes! these wretched women were all of them once little children, and capable of being taught, and trained, and raised into true womanhood. We have spent, Sir, too much time and too much money and sympathy on our refuges and our Magdalens; let us now turn to the little ones who have no past and no future, and place them where they may look back upon a happy girlhood, and forward to a respected and virtuous age.

Let us no longer join in the senseless cry that the enriching of our colonies is the impoverishing of England; rather let us begin to understand the exact reverse. Let manufacturers know that the cost of a pauper or beggar's clothes for the year only oscillates from 0 to 5 *l.*, but that each child whom I take abroad sends them back, directly or indirectly, orders for goods that may be counted by 10 *l.* and 20 *l.*, and even 30 *l.* a year.

Little more now remains for me to say except to draw your attention to the cost of this experimental work, partly paid for, as you will observe, by public subscription, and partly by moneys raised from the rates. I have to confess that my past accounts have been badly kept. Larger hearts and broader minds than Mr. Doyle's would have found some excuse for the shortcoming in the fact that I have personally crossed the Atlantic some 20 times in the six years, that during the whole of that time I have had the full weight of the whole of the work on my shoulders; that I have had to indoctrinate simultaneously both the English and Canadian public; also arrange, purchase, and furnish the terminal receiving houses, viz., at Peckham and Niagara. Happily for myself, the Canadian Government were good enough to allow their auditor to examine the vouchers and the books which I offered Mr. Doyle, and which he declined to do, while in Canada.

For the future the rate of 8 *l.* per head received with each workhouse child up to this date will, I think, have to be raised to 12 *l.* to meet the expenses of the separate Home which we must have for the returned and refractory girls, and that a larger staff of officers may be kept to relieve either myself or whoever undertakes the headship of this work, a sum which could easily be afforded when it is remembered that the Kirkdale, Bristol, and St. George's, Hanover-square, Schools Committees have all publicly acknowledged that my work has saved the rates to the extent of 2,000 *l.* to 3,000 *l*, a-year each.

If after reading this Report, you still think that the stray and Peckham children should be separated in Canada from the workhouse children, I shall be very willing to sell to the Imperial Government my Western Home at Niagara, to be used for the workhouse children exclusively, and to buy another property with the moneys so received as a separate Home for my stray children.

In the spring of this year I publicly asked Guardians of parishes to tell me and the public generally what became of the young people, and the girls especially, whom they had from time to time placed out in life in England, that we might compare our workings. As far as I am aware, the only Board that accepted my challenge was that of St. George's, Hanover-square, and in my Appendix, from 5 to 8, you will have an opportunity of seeing the per-centages of failings and of success, of especially the girls, after being started in life from their schools.

The only definite information I have received from other Unions about their children is as follows:—

The Chippenham Board considers that at least one-third of their children are failures.

Marlborough writes me that 25 per cent. are unable to satisfy their employers.

Portsea Island tells me only of 15 girls of 1871, all reported as doing well, but the number is too small to be of much service, particularly when the size of the school is considered.

Lambeth speaks of over 80 girls placed out into service since 1871, "*all of whom, to the best of our belief, are doing well*," which is surely no report at all.

Manchester, one of the best, probably the best, managed and oldest separate workhouse school, in England, speaks of 8 per cent. of failures amongst the girls, but I doubt very greatly if even this school could tell me where 1,000 of their girls are located to-day, and so really test this statement fully.

By the official correspondence which I now publish you will see that the Dominion Government of Canada in December 1875 had sufficient confidence in me, after Mr. Doyle's attack had reached Canada, to vote me 1,000 dollars, or 200 *l.*, for the maintenance of the Western Home during the past year, a totally inadequate sum, but valuable as showing the sympathy of the country. You will also see by same letter (*see* No. 1) that I am directed for the future to look to the Province of Ontario, in which the bulk of my children are, for any Canadian support I may in future require. In June of this present season I put myself into communication with the Ontario Government, asking if they, as a Government, would relieve me of the responsibilities of the returned children, and start a Government reformatory. You have the Hon. Mr. Wood's answer in letter 4 of same page, by which you will see that, in lieu of my proposition, the Ontaria Government propose to give me 6 dollars, or 1 *l.* 4 *s.*, for each child landed there. This offer is open to many objections, the chief being that my expenses for such children, for household expenses, and for a governing and travelling staff, would be permanent, but the income erratic and varying with the number of children committed to my care by different workhouses. With regard to the numbers of children, I can say safely that Canada can take 1,000 children a year for the next 10 years certainly, and as about 3,000 workhouse children are annually placed out in England, many of whom, I fear, get into Westminster and other houses of correction, as already shown, I trust my hopes may not be disappointed. Should 500 girls as a minimum be sent out every year, my objection to this mode of payment by the Government of Ontario would, of course, fall to the ground.

You will see by Letter, No. 3, from the Premier of Canada, the Hon. Alexander Mackenzie, that at my request the Dominion Government are prepared to periodically inspect our Canadian Homes for the Imperial Government, and I can only say I have no objection to any such inspection if you wish it.

One word and I have finished. I here publicly offer my grateful thanks to my two secretaries, Lizzie Still, of London, and Geraldine Allaway, of Niagara; and if out of so many Canadian labourers, I should especially single Mr. and Mrs. Robert Ball, of Niagara, and Mr. and Mrs. Robson, of Newcastle, for their especial labours on behalf of the children, I shall, I trust, be forgiven by the other workers whose labours have not been quite so incessant.

I shall conclude by saying that the following Unions, all of whom have previously committed their young people to my care, have again requested me to carry more children to Canada, viz., Fareham, Chichester, Oxford, Stepney, and I believe I may also add Bristol. I shall be obliged, therefore, by your kind attention to my statements, and for an answer that will enable me to advise the guardians of the parishes above alluded to what are your wishes and intentions on this great matter.

I have, &c.

(signed) *Maria S. Rye.*

Avenue House,
High-street, Peckham.

ANSWERS to Statements made in Mr. Doyle's Report.

(Edition, 8th February 1875.)

Statements.	Answers.
Page 1.—"The title 'pauper.'"	This report does not only relate to pauper children, bnt includes report upon the Arab and stray children, and omits any notice of the pauper children taken out by Rev. Styleman Herring, from the Holborn Union, and also the Roman Catholic pauper children sent out by Archbishop Manning.
Page 4.—"The addresses given me were incorrect."	I had some six letters out of 1,168 returned to me through the Dead Letter Office, when writing to the guardians of the children in 1875.
Page 4.—"Children are distributed in the remotest settled 'concessions' in the West."	I have four children so placed.
Page 4.—"Workhouse girl gone on the streets at Lewiston."	Elizabeth Boncer, of Tamworth. *See* her history on page 6, No. 65, in Synopsis.
Page 5.—"Miss Rye receives *considerable* assistance from the Governments of the Dominion and the Province of Ontario." We are again informed of this fact on pages 6 and 33.	The *considerable* assistance, amounts in five years to 402 *l.* from the two Governments referred to, and 300 *l.* from the Government of New Brunswick, half of which, not being needed for work undertaken, was refunded. *See* Mr. Doré's Letter, p. A.
Page 6.—"Payment for the children by the guardians of 8 *l.* 8 *s.* each child."	Should be 8 *l.* This misstatement alone makes a difference of 530 *l.* 16 *s.*, or more moneys than I have received in the five years from the Dominion Government and Province of Ontario united.
Page 6.—"Although in 1868-69 the guardians of *two* or *three* Unions availed themselves of Miss Rye's," &c., "to send pauper children," &c.	The first Union that sent any children to Canada was Kirkdale, in Liverpool, and they sent 50 children in October 1869.
Page 6.—"Children from Reformatories sent."	I have only taken three such children, and these were from Feltham in 1869.
Page 7.—"Case of parents living, their consent is *said* to be obtained."	Is always so obtained. Has Mr. Doyle never heard of writs of Habeas Corpus?
Page 8.—"St. George's Home, in Côté St. Antoine."	Côté St. Antoine is three or four miles distant from St. George's Home.
Page 8.—"Miss Rye's jouruey is sometimes broken at Toronto."	Always broken at Toronto.
Page 8.—"The children Miss Rye has distributed in New Brunswick and Nova Scotia, consigned to the care of persons in whom she reposes confidence."	Each time I have placed children in either New Brunswick or Nova Scotia I have accompanied them there myself, and have never left either province until the children have been placed.
Page 8.—"The 'Western Home,' bought for Miss Rye by subscription."	The "Western Home" was bought by the moneys given me in 1868, in answer to my letters to the *Times* on the emigration of children, and was earned by my own pen and hard labour.
Page 10.—"There is in this 'Home' (Niagara) a paid matron and a servant."	At the time of Mr. Doyle's visit to my "Home," besides myself, there were—Miss Allaway, hon. secretary; Mrs. Sittleton, matron; Mrs. Gray, cook; Alice Heathcote, parlourmaid; Samuel Tracey, man. *See* also Miscellaneous Particulars, No. 10.
Page 11.—"The other sense in which the word 'adoption' is used is simply 'apprenticeship.'" Page 11.—"A third form of indenture," &c.	These statements are altogether erroneous. We have our "adoptions," and our "apprenticeships," respectively figured G and H in Mr. Doyle's Report, with "I," the apprenticeship of the lads, and no other or third method of placing out children.

Statements.	Answers.
Page 12.—"The whole of this machinery of 'indentures,' though it has a look of being business-like, appears to me to be worthless or delusive."	In Canada and in the States we have especial laws relating to adoption. The papers I use in Canada were drawn up for me by a very eminent Canadian barrister, and we have found them to work as well as indentures work in England, that is, not perfectly, but very fairly.
Page 13.—"I have several times driven through miles of forest, to find the settlers' first home, just put upon the few acres of recently-cleared land."	*See* Synopsis in Appendix. p. 4, reprinted from the Canadian Government Report.
Page 14.—"Some of the places, indeed, are worse than a Board of Guardians would consent to place a child in in England."	Why not give the names of the children so placed, and the people with whom residing? Also, what was the girl's character, and if it was her first or fifth or even tenth place?
Page 14.—"*Many* of Miss Rye's children are in the States."	Twenty-four out of 1,168, and of these 11 were placed there in 1870, before the work became so popular in Canada.
Page 14.—"Miss Rye does not profess to have any regular or organised means of supervision at all."	*See* Miscellaneous Particulars, No. 6, with names and addresses of co-workers in Canada.
Page 14.—"A large proportion of children sent out are the semi-criminals of our large cities and towns."	The actual figures are 887 workhouse and 281 stray, and of these stray children three only from a Reformatory; while as to the conduct of the girls in Canada, I beg to refer you to Miscellaneous Particulars, No 2, by which it will be seen that while 16 workhouse girls have had illegitimate children in the six years, we have not yet had one of our stray or Peckham girls so disgrace us.
Page 17.—"Children, I am assured, are not allowed to leave Miss Rye's 'Home' until they are in a fit state. With reference to her children, however, I heard of more than one similar complaint!"	More than one out of 1,168 children! with very many of the children delivered over to me from the workhouse schools, having their heads in a terrible state. I wonder who will undertake to find matrons clever enough to comb children's heads at sea, with most probably children and matrons all sick together!
Page 18.—"Suitable provision should be made for sick and infectious cases."	As far as I am concerned, I shall first have to get the infectious cases, as in the past six years, with the exception of 11 cases of measles in 1874, we have had no infectious disease and no other sickness worth speaking about, as the death-rate and medical bills show. The attendance of a medical man has chiefly been needed for scrofulous cases and old sores that have broken out from change of air and food. The gradual rise in our medical bill (small though it is) is due to the fact that every year up till 1874, has seen a gradual increase in my numbers, and therefore necessarily, according to the laws of general average, an increase of the possible numbers of returned and sickly children; a great allowance must also be made for the fact that my late matron had a habit of sending for a medical man to attend the children in my absence, and very frequently unnecessarily.
Page 18.—"Regulations adapted to the character of the establishment should be prescribed."	Should the work be undertaken by the Government no reasonable person could possibly object to this.
Page 18.—"They should be periodically inspected."	The Canadian Government have, at my request, consented to do this in the future. *See* Appendix, page C, letter 3.
Page 18.—"One intelligent girl complained."	Why is not the name of the girl and of the "Home" also given?

Statements.	Answers.
Page 18.—"Girl in Miss Rye's 'Home' kept in solitary confinement 11 days, and fed on bread and water."	Name again not given. It is impossible for me to be certain what girl is referred to. I think it was in 1872 that I did place a girl, for the most infamous crime a human being can be guilty of by herself, for some time; it was impossible for her to be allowed to mix with any other children, but I do not remember for how long; and I did give her bread and water, but certainly not for 11 days. The girl made a full confession to me personally of her guilt.
Page 19.—"Owing to the very rapid dispersion of these young emigrants, Miss Rye can know very little of their character or disposition, or peculiar aptitude," &c.	As a rule we have always kept our children three weeks or a month in the "Home" before dispersion, a course much disapproved of by our Canadian friends, many of whom have been waiting months, and in some cases years, for the children.
Page 20.—"Miss Rye trusts to the accident of being able to find persons in different districts who will relieve her from the responsibility of finding suitable homes and of looking after the children when they are placed in them."	Having been fortunate enough to attract to this scheme the co-operation of some of the finest men and women in Canada, I consider I have by so doing secured that "intimate knowledge of locality," &c., pointed out by Mr. Doyle, as one of the desiderata laid down by the Board in 1870, for the guidance of Boarding-out Committees. *See* Miscellaneous Particulars, No. 6.
Page 20.—"Child brought back because 'too small;' sent to another place 'next day;' brought back because 'the man was drunk;' 'because he was with rough men and learning to swear.' Several cases of children being removed because Miss Rye was not satisfied with the place."	I have had children brought back because they have been said to be "too small," which is another way in Canada of saying "disobedient and unmanageable." I have never placed out returned children the "next day;" nor had one brought back because the "man drank;" or "because the child was with rough men and learning to swear." I have removed a few children because I was not satisfied with their homes, which I hope shows that when I have made a mistake I rectify it as soon as the mistake is discovered.
Page 21.—"I have found dissatisfied servants looking forward anxiously to being, as their phrase is, 'my own mistress.'"	Is this state of things confined to one side of the Atlantic?
Page 25.—"So completely does Miss Rye trust to the care and supervision of friends that she was not able to give me the address of this girl or the particulars of the case."	For this very reason, that Mrs. Robson was at the actual time of Mr. Doyle's visit to Canada in correspondence with myself about this sad case, and we had positively not determined what should be done when Mr. Doyle was talking to me about it.
Page 26.—"G. McM. He was not there," &c.	This boy's history (George M'Masters) and his sisters given in my Synopsis, Nos. 130, 131.
Page 27.—"E. B. Is lost sight of."	Elizabeth Boncer, who has already done duty in Mr. Doyle's Report. *See* Synopsis, No. 65.
Page 27.—"C. C. Left her second place a year ago; present address not known."	? Caroline Cousens. *See* Synopsis, No. 739.
Page 27.—"J. C. Left situation."	Jane Canner. *See* Synopsis, No. 128. Girl now 20 years old.
Page 27.—"M. H. Present address not known."	? Margaret Heywood. *See* Synopsis, No. 421.
Page 27.—"C. L. Address not known."	? Christina Lucas. *See* Synopsis, No. 16. Girl now 18 years old.
Page 27.—"A. L. Address not known."	? Arthur Lucas. *See* Synopsis, No. 434. Lad 20 years old.
Page 27.—"A. C. Address lost," &c.	Ann Cole. *See* Synopsis, No. 309. Girl 20 years old.
Page 27.—"M. C. Changed places several times; address not known."	? Mary Ann Craddock. *See* Synopsis, No. 708.
Page 27.—"E. C. Changed places many times; doubtful if still in her last situation."	Elizabeth Cook. *See* Synopsis, No. 46. Girl now 19 years old.

Statements.	Answers.
Page 27.—"E. D. Present address not known."	? Elizabeth Dunkley. *See* Synopsis, No. 198. Girl 18 years old,
Page 27.—"J. F. Address not known."	Janetta Ford. *See* Synopsis, No. 358. Girl 23 years old, and most respectably married.
Page 27.—"M. A. G. Address not known."	? Mary Ann Green. *See* Synopsis, No. 222. Girl 19 years old.
Page 27.—"H. H. Address doubtful."	Harriett Howell. *See* Synopsis, No. 452. 15 according to entry, but I believe H. H. is much older; nearly 18 years I should say.
Page 27.—"H. J. Address not known."	Harriett Jewery. *See* Synopsis, No. 567. A very sad case indeed.
Page 27.—"M. McN." (Correct.)	Mary McNulty. *See* Synopsis, No. 381. Girl 20 years old.
Page 27.—"E. M." (Correct.)	Emma Maton. *See* Synopsis, No. 392.
Page 27.—"A. P. Address not known."	Alice Parsons. *See* Synopsis, No. 305. Girl 20 years old.
Page 28.—"A.P. Address not known."	? Ann Phillips. *See* Synopsis, No. 580. Girl 20 years old.
Page 28.—"S. S. Address not known."	Sarah Southall. *See* Synopsis, No. 357. Girl now 22 years of age.
Page 28.—"E. W., Dr. C. Address not known."	Elizabeth Waite. *See* Synopsis, No. 405. Girl 19 years of age.
Page 28.—"H. W. Address not known."	Hannah Waite. See Synopsis, No. 404. Girl 20 years of age.
Page 28.—"E. W. Address not known."	? Emma Western. *See* Synopsis, No. 540. Girl 19 years old, and returned to England.
Page 28.—"E. B." (Correct.)	Eleanor Bellman. *See* Synopsis, No. 80. Papers found now.
Page 28.—"A. C." (Correct.)	? Annie Cruel. *See* Synopsis, No. 15. Girl is with Mr. Corthorpe; *see* letter of 1875.
Page 30.—"In the case of an accident which they thought Miss Rye ought to know. A nice little girl, who had the sight of one eye destroyed by the careless use of firearms."	The case of Mary Richards. *See* Synopsis, No. 106; also the correspondence that took place in 1872 between Mr. Jenkinson and myself on this subject; also the girl's photo.
Page 33.—"Connected with this system of emigration charges have been publicly made and discussed in the Canadian press and elsewhere, grounded upon the assumption that Miss Rye has a pecuniary interest in it."	Such charge was once made in an insignificant Canadian paper, and it is perfectly well known from whose pen the article emanated—viz., the same person who made the same sort of attack upon the work before the Islington Board of Guardians in 1873.
Page 33.—"A satisfactory result could only be arrived at by a strict audit, in which vouchers for each item of expenditure should be produced."	This has been done for me by the Dominion Government of Canada, to whom I handed over all my vouchers after the appearance of Mr. Doyle's Report, and after he had declined the work while in Canada.
Page 35.—"It was a long time, employers have frequently told me, before that class of children could get over the feelings of home sickness."	As a set-off to this statement I can give another fact: that on one occasion, when we were leaving the Mersey and slowly steaming away, while the other passengers were waving their handkerchiefs and raising a true English cheer for the dear old land they were leaving, my large crowd of workhouse children took up the strain from the other passengers almost before it had ceased, and burst out into a long, loud, and terrible groan, and three groans for England were raised and given before I had power to gain silence.
Page 35.—"Pauper children referred to as 'the refuse of our workhouses.'"	I have never heard this expression used in Canada, and as my object in taking the children there is to find them homes, on the very lowest ground of common sense I should not be very likely so to speak of the girls myself.

Statements.	Answers.
Page 36.—"Miss Rye took 50 children to London," &c.	As this most astonishing statement has already been officially contradicted—under the seal of the Corporation of London—I need only again say that Mr. Doyle was misinformed in every particular. I took 12 children, and not 50. I was in London one week before the children came, during which week I was the guest of Captain and Mrs. Whitehead, who with me selected 12 homes out of 25 that offered; the children came up from Niagara to London, 90 miles, under care of my co-worker and at the expense of the "Home," and we never went into or even near the Town Hall.
Page 36.—"The stipulation for the service of these children is that for the first year the employer is to pay in *clothing* 30 dollars."	If you look to my indenture of service for boys, lettered I, p. 41, in Mr. Doyle's Report, you will see how Mr. Doyle has made his mistake of a third indenture. "I" refers to the boys, as H to the girls, and you will see that the *wages* of the boys commence at 30 dollars, or 6 *l.*, a year for a lad of 13, rising 2 *l.* every year, in addition to which he would of course get board, lodging, and washing, together with schooling for the three winter months.

LETTER from *Fred. J. Doré*, Esq., Accountant to *John Lowe*, Esq., Secretary, Department of Agriculture, Canada.

Department of Agriculture, Ottawa,
Canada, 6 December 1875.

Sir,

In conformity with your instructions, I have examined the statements of receipt and expenditure, accompanied by vouchers, submitted to the Department by Miss Rye, extending over a period of seven years, viz., from 1869 to 1875 inclusive, and I have now the honour to report to you the result of my investigation.

The moneys received by Miss Rye from the Local Government Board and in Canada, admit of proof; but the amounts received from public subscription rest in the statements she has furnished.*

John Lowe, Esq., Secretary,
Department of Agriculture.

The following is a *résumé* of her receipts:—

	£.	s.	d.
Peckham: 181 children at 8 *l.* each—1869 to 1874 - -	1,441	–	–
Ditto, Railway Fares (100 at 12 *s.* 6 *d.*, and 81 at 6 *s.* 3 *d.*	115	–	6
By Workhouses—897 at 8 *l.* - - - - - - -	7,176	–	–
„ Railway Fares (200 at 12 *s.* 6 *d.*, and 133 at 6 *s.* 3 *d.*) -	166	11	3
New Brunswick Government - - - - - -	300	–	–
Ontario Government (1,590 dols.) - - - - -	326	14	3
Dominion ditto (372 dols.) - - - - - -	76	8	9
Subscription in England - - - - - -	4,044	–	–†
Ditto in Canada (dols. 334·16 - - - -	68	9	2
Payments by women and children - - - - -	1,980	–	–
Interest on Bank deposits (dols. 314—95) - - -	64	14	4
Total sterling - - -	£. 15,758	18	3

Or, $. 76,693. 37. in Canadian currency.

I give you her expenditure under two separate heads:—1. Her Expenditure in England. 2. Her Expenditure in Canada.

Synopsis

* *See* Miscellaneous Particulars, Nos. 11, 12.

† The subscriptions here referred to, and not quite accurately, as to amount, consist of the sum of 2,079 *l.* 5 *s.* 11 *d.*, as per list given in Miscellaneous Particulars, Nos. 11, 12, the sum of 1,940 *l.* handed by Miss Rye to her London treasurer in 1872, and a sum of 30 *l.* left by Miss Rye with Miss Still (*see* Balance Sheet of Peckham Home, First Report) making together the total sum of 4,049 *l.* 5 *s.* 11 *d.*

Synopsis of Miss Rye's Expenditure in England.

	1869.	1870.	1871.	1872.	1873.	1874.	Total.
	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£ s. d
House-rent (office)	22 10 –	30 – –	30 – –	– –	– –	– –	82 10 –
Servants' wages	10 – –	17 – –	17 – –	– –	– –	– –	44 – –
*Furniture	260 8 1	36 3 4	23 16 10	– –	66 8 6	47 7 10	434 4 7
Printing, Stationery, and Advertisements.	16 19 1	18 7 9	16 13 2	2 16 8	– –	– –	54 16 8
Postages (no vouchers)	12 – –	30 – –	50 – –	20 – –	– –	– –	112 – –
Ocean transport of children R. R. fares, including matron's fees and baggage charges, &c.	250 12 5	727 11 5	1,279 – 6	1,744 19 6	1,028 2 6	606 16 –	5,637 2 4
Ditto, ditto (women)	787 – –	180 10 –	138 – –	– –	– –	– –	1,105 10 –
Miscellaneous expenses	– –	33 – –	30 – –	18 16 8	– –	10 – –	91 16 8
Payment to Treasurer of London Home.	– –	– –	– –	1,940 1 10	– –	– –	1,940 1 10
Refund to Unions	– –	– –	– –	– –	– –	41 5 –	41 5 –
	1,359 9 7	1,072 2 6	1,584 10 6	3,726 14 8	1,094 11 –	705 8 10	9,543 7 1

Synopsis of Miss Rye's Expenditure in Canada.

Year.	Purchase of Buildings and Repairs, Draining and Gardening, &c.	Furnishing.	Travelling Expenses.	Household and living Expenses, including Fuel, Wages of Servants, &c.	Sundries.	Total.
	Dol. c.	*Dol.* c.	*Dol.* c.	*Dol.* c.	*Dol.* c	*Dol.* c.
1869	2,242 26	384 61	83 95	242 99	79 17	3,032 98
1870	2,589 26	63 17	385 20	1,169 15	138 20	4,344 98
1871	1,415 79	464 19	4,684 94†	2,135 11	485 65	9,185 68
1872	725 59	311 85	474 49	1,594 03	160 60	3,266 56
1873	929 59	81 76	660 01	2,536 54	1,172 10	5,380 00
1874	373 23	39 92	376 49	1,670 38	242 46	2,702 48
1875	176 74	– –	301 60	1,270 77	637 10	2,386 21‡
	8,452 46	1.345 50	6,966 68	10,618 97	2,915 28	30,298 89

Thus you will observe that the receipts have been 76,693 dols. 39 cents.

Whilst the expenditure, for which, with a few trifling exceptions, not of a character to affect the general result, receipted vouchers are furnished, has been:—

	Dol.	*Cents.*	
In England	46,444	33	
Canada	30,298	98	
			76,743 22

Showing an excess of expenditure over receipts of $49. 85. I notice that no charge has been made by Miss Rye for postage since 1872, whereas there can be no doubt whatever

* This includes linen, crockery, &c., for Canadian Home.
† Includes passages of 110 children paid for in Canada.
‡ Includes refund of 900 dollars to New Brunswick Government.

whatever that her correspondence must have been of some magnitude, and she could scarcely, I should think, have spent less than 400 or 500 dollars in connection therewith.

Miss Rye's bank account with the Canadian Bank of Commerce shows her deposits to have been as follows:—

	Dol.	*Cents.*		*Dol.*	*Cents.*
1869 - -	5,463	76	1873 - -	4,460	15
1870 - -	5,223	85	1874 - -	3,700	72
1871 - -	7,218	49	1875 - -	958	41
1872 - -	3,620	82			
				30,646	20
			Interest on do. - -	314	95
			Total -	30,957	15
The amounts checked out during the years given were - -				30,298	89
				658	26
Her balance to November 3rd is given as - - - -				502	26
Leaving for outstanding cheques - - - - - -				$156	00

She explains that a portion* of the money thus banked has been derived from her own private funds, and that the balance in the bank accruing to the general fund at the present date amounts to $167. 50.

I may remark as against the expenditure incurred by Miss Rye that she owns the freehold of the "Western Home" in Niagara, where her operations are carried on.

I have, &c.
(signed) *Fred. J. Doré,*
Accountant.

John Lowe, Esq., Secretary,
Department of Agriculture.

Official Correspondence Relative to the Emigration of Pauper Children.

(1.)

Department of Agriculture,
Ottawa, Canada, 6 December 1875.

Madam,

I HAVE the honour, by request of the Minister of Agriculture acting under authority of an Order in Council, to inform you, in reply to your request that a grant of 2,000 dollars be made to you for keeping open your "Western Home," that it has been decided, upon consideration of the circumstances, to make to you a grant of 1,000 dollars, an official cheque for which amount is herewith enclosed.

I am further to inform you, in so far as your work may for the future require Canadian support, that it must be obtained from the provincial authorities, it being properly the duty of the Provincial Governments to see to the care of immigrants after their arrival in Canada.

I have, &c.
(signed) *John Lowe,*
Secretary of Department of Agriculture.

Miss Rye.

(2.)

Department of Agriculture,
Ottawa, Canada, 28 December 1875.

Madam,

I HAVE the honour, by request of the Minister of Agriculture, to return to you herewith the accounts and papers submitted by you for the inspection of the Department in support of your application for assistance for your "Western Home."

They have been examined by the accountant of the Department, and I enclose to you his report upon them.

I have, &c.
(signed) *John Lowe,*
Secretary of Department of Agriculture.

Miss M. S. Rye, Niagara.

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* A very inconsiderable amount (60 *l.*) paid in before I opened a separate account at the bank.—M. S. R.

(3.)

Office of the Minister of Public Works,
My dear Madam, Canada, Ottawa, 10 December 1875.

YOU will have received before now the letter of the Minister of Agriculture, informing you briefly of what the Government have decided to do in aid of your Home.

In reply to the general question you put to me in conversation, I can only say that the Dominion Government do not deem it to be properly within their province to take charge of or control such establishments as yours and Miss McPherson's.

We consider that you should apply to the Provincial Governments, as each Government can then adopt its own course with reference to the classes of children, as well as the mode of conducting the immigration of young people.

I informed Lord Carnarvon last summer that the Dominion Government would be quite willing to undertake a periodical inspection of all such establishments, so as to satisfy the Imperial Government that they were properly conducted. We will undertake to do this as soon as you have adopted a settled policy with the provincial governments.

Yours, &c.
Miss Rye. (signed) *A. Mackenzie.*

(4.)

Department of Immigration, Toronto,
Madam, 15 June 1876.

I HAVE the honour to inform you, under instructions from the Honourable the Commissioner, that in lieu of your proposal, Government, towards covering the expenses, will give yourself six dollars each child hereafter brought out. I have sent you a cable message to this effect.

I have, &c.
Miss Rye, Peckham, London. (signed) *David Spence,*
Secretary.

PAUPER CHILDREN (EMIGRATION TO CANADA).

COPY of LETTER addressed by Miss *Rye* to the President of the Local Government Board, referred to in Mr. *Doyle's* Reply thereto, of the 14th day of May last, already presented.

(*Mr. Stansfeld.*)

Ordered, by The House of Commons, *to be Printed*,
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