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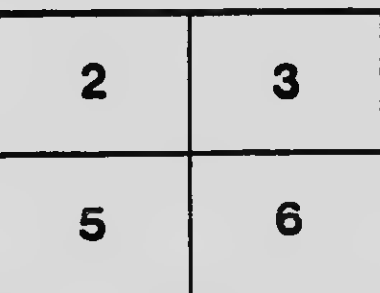
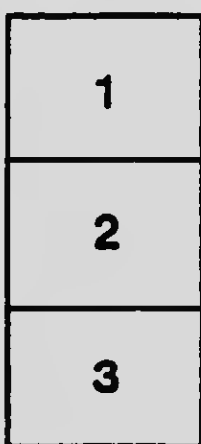
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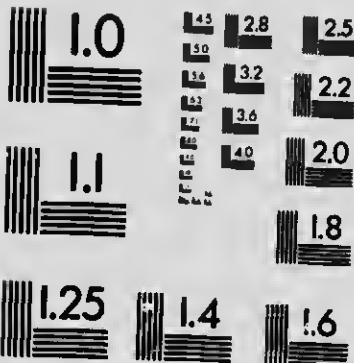
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# **CHICNECTO SHIP RAILWAY CASE**

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## **IS THE DOMINION ACTING IN BAD FAITH WITH THE BRITISH INVESTORS ?**

**Address by Mr. A. D. Provand at a Meeting of  
Members of Parliament. Some of the  
Members have Strong Opinions.**

**REPRINTED FROM THE OTTAWA EVENING JOURNAL, 26th APRIL, 1901.**







Reprinted from the Ottawa Evening Journal of 26th April, 1901.

# Chignecto Ship Railway Case

## Is the Dominion Acting in Bad Faith With the British Investors ?

A Meeting of Members of Parliament Addressed by Mr. Provand on the Subject. Some of the Members Have Strong Opinions.

Mr. A. D. Provand, of London, Eng., who represents the shareholders of the Chignecto Ship Railway Company, last evening addressed a meeting in the Tower Room of the parliament buildings upon the affairs of the company.

Mr. Provand has been trying for six years past to get a hearing for the British investors in the Chignecto company, who at present are about four million dollars out.

Mr. McKinnon, M. P., occupied the chair, and among those present were: Senator McSweeney, Senator Templeman, Dr. Russell, M. P., Messrs Lennox, M. P., Brice, M. P., McLennan, M. P., Fowler, M. P., Copp, M. P., Kaulbach, M. P., Cochrane, M. P., Gonrley, M. P., Osler, M. P., Prior, M. P., Broder, M. P., Barker, M. P., Wilson, M. P., Parmelee, M. P., Gilmour, M. P., Aleorn, M. P., Tolton, M. P., Claire, M. P., McGowan, M. P., Gibson, M. P., Kidd, M. P., and others.

### THE CHIGNECTO CASE.

Mr. Provand opened his address by a brief review of the history of the scheme for securing a ship route across the Isthmus of Chignecto, between the Bay of Fundy and the Gulf of St. Lawrence. He said that in 1871 a Royal Commission reported strongly in favor of a Ship Canal, being made at almost any cost, and the Government was so impressed that it voted money towards commencing construction each year from 1872 to 1875. The vote in 1875 was \$1,000,000. The estimated cost was \$5,300,000 and the Hon. Alexander Mackenzie, then Prime Minister said in the House that if it could be made for that sum it would be well to do so. But later estimates made the cost as high as

nine or even ten millions and the ship canal scheme was on this account finally dropped.

The Ship Railway, continued Mr. Provand, was some years afterwards proposed by Mr. Ketchum a well known Canadian civil engineer. He laid his plans before the government who submitted them to their chief engineer Mr. Collingwood Schreiber, and he reported approving the scheme which the Government therefore adopted and agreed to subsidize provided Mr. Ketchum could find the capital in England and that they would not require to pay the subsidy until the Railway was completed and working to their satisfaction. Please note that the Government had been willing to expend between five and six million dollars of their own money in making a ship canal. Now a ship railway presented many advantages over a canal and as the capitalized value of the Railway subsidy was only half the cost of a canal and no part of the subsidy was payable until the Railway was working, the bargain was a very good one for the Government.

Parliament then passed two Acts in 1882 incorporating the Ship Railway Company and granting a subsidy of \$150,000 per annum for twenty years.

Mr. Ketchum took the Acts to London and laid them before bankers, showing the terms offered by the Government to obtain the capital, but estimates made the cost higher than was expected and he could not obtain the money. For the next six years, namely until 1888, he was passing between Ottawa and London having the terms altered to overcome the financing difficulties. The two original Acts were amended by three others, subsequently passed, in order to get the money and finally the bankers promised to ask British investors to subscribe the capital if the Canadian Government signed their approval of all the plans and specifications and the Government did so.

The incorporators named in the act were only known to our bankers as the necessary legislative machinery created by your Parliament as a pro forma company to hold temporarily the charter, the subsidy and the contract to construct the Railway until they could be transferred to our investors in exchange for the money to carry out the project. They never intended to find any capital, their object and that of the Government was to obtain the capital in London and this was repeatedly stated in the House by the Ministers.

Mr. Ketchum was in effect an agent of the Government and all the negotiations were conducted by him. No one came from London to Canada seeking the business. We took no part in promoting it. That was entirely done here in Canada.

The only promoters we knew were the Canadian Government and Mr. Ketchum who came to London with their offers amending and re amending them until we were induced to promise the capital. His representations were those of your Government and of your House by its Acts and the Government proved its faith in the scheme by subsidizing it.

In this connection, Mr. Provand quoted a speech by Sir Richard Cartwright in the Commons in which it was asserted that the Government's action in voting a subsidy implied to the English investors an endorsement of the project.

#### HIT BY CANADIAN LEGISLATION.

Continuing, Mr. Provand said:

In March 1889 the prospectus of the company was prepared to issue to the public asking subscriptions for the Capital—namely £700,000 5 per cent. bonds and £300,000 preference shares, when the investors, whom I represent, were brought into existence. But it was then found that in the previous year your Parliament had passed an amended General Railway Act which required 20 per cent. of the total cost to be expended on the Railway before we could issue our bonds. The preferred shares amounting to £300,000 were therefore only offered to the public at that time and they were immediately subscribed for at par. Of this more than \$1,000,000 was spent on the work during 1889 and by November we became legally entitled to issue the bonds, but meantime the terrible and unparalleled financial crisis which affected all the world from 1890 to 1894 was threatening, and we could only obtain subscriptions for £250,000. This unfortunate change in the law made by your Parliament regarding issuing bonds was the cause of all our difficulties, but for it they would have been subscribed for early in 1889 the entire capital secured and default in completing the railway made impossible.

#### PROGRESS OF THE WORK.

We let the contract to a leading firm of contractors, but they exhausted their means and in 1891 were compelled to suspend construction on the Railway after about two-thirds were done and it has since then remained unfinished, about \$4,000,000 having been expended on it.

In June 1894 we were ready with our capital to recommence construction and finish the Railway, but the Government would not reinstate us, and excepting in 1897 when your Prime Minister went to London, I have been here every year since 1894, seeking the renewal of our subsidy and charter, but have been compelled to submit to constant postponements for which there have been no sufficient reasons given.

Mr. Provand produced copies of the prospectus on which the capital for the Railway was subscribed, shewing that the Subsidy Act of the Dominion was reprinted in it as one of its chief features. The money, he said, was therefore subscribed by the investors in good faith on the premises made in that Act and their confidence was proved by the fact that the bonds were issued at £108½ per £100 bond and the preference shares at par. Every investor paid these prices in cash to the Company's bankers. Very few of them have changed hands since then. There have been almost no transfers except in cases of death

or the closing of estates. Nearly all the subscribers still hold the bonds and shares, therefore, whatever arrangement we come to with the Government will benefit those who originally found the capital.

#### NEVER GOT A DOLLAR.

After pointing out that the company never received a dollar by way of subsidy from the Dominion, the subsidy grant having been made payable only after the completion of the work and upon its maintenance to the satisfaction of the Government, and that on the contrary the company had paid the Government more than \$100,000 duties on machinery which could not be made in Canada, Mr. Provand said: We have been ready since June 1894 to recommence and finish the Railway; but the Government refuse to reinstate us in possession of our subsidy on two grounds, firstly, they think the Railway will not be commercially successful and secondly, they say that we have had repeated extensions of time. With regard to the question of commercial success, I submit that the Government take up an indefensible position. The scheme was before the House for six years from 1882 to 1888, when the last act was passed, and by subsidizing it the Government gave the strongest proof they could that it had their approval. They took ample time for consideration.

In effect the enterprise was a partnership between the Government and the Company. The Act of your House invited us to expend our capital by promising us a subsidy when we had done so. We have expended \$4,000,000 and now—taking advantage of their own legislative mistake in the amended General Railway Act of 1888 which prevented us issuing our bonds and securing the entire capital—they say that because the Railway was not completed by the agreed day that they will not now allow us to complete it and earn the subsidy.

In faith of the subsidy we expended \$4,000,000 and are ready to expend the balance required to complete the Railway. We only ask the Government to keep their bargain and we shall keep ours and abide by the result whether profitable or otherwise. Their plea of the Railway not being a commercial success is inadmissible. The facts have merely to be stated to show that the action of the Government is totally contrary to the first principles of equity and fair dealing.

#### THE EXTENSIONS OF TIME.

Their second reason, namely, that we have had repeated extensions of time, is contrary to fact, we had one extension of one year given to us in 1891 on account of the unforeseen difficulties encountered in construction which were then stated in the House. One of these was, that to obtain a solid rock foundation for the docks and basins the excavations had to be carried 24 feet deeper than was believed to be necessary by the test borings. There was, however, another extension of time promised us, but when we were ready with our capital in June 1894 to

recommence construction, the promise was not kept and the single extension of one year is the only one we ever received.

In this connection Mr. Provand called attention to the numerous extensions of time given the Interprovincial Bridge, Georgian Bay Canal, Pontiac and Pacific Junction Railway Company's bridge at Algonette Island, and offered them as showing the difference between the treatment accorded here to Canadian and to British investors. The practice had been to give extensions of time and to revoke subsidies. The Chignecto scheme is the only exception made.

#### THE COMPANY'S OFFERS.

Mr. Provand next outlined the various forms of relief asked of the Government, but to which no satisfactory answer had yet been given. They were as follows :

We have asked the Government for relief in various ways without success.

Firstly, by revoking our subsidy and charter, to which we are clearly entitled according to all Canadian precedents.

Secondly, if they will not do so we are agreeable to accept a sum as compensation and failing agreement as to the amount we are willing to leave this to be fixed by arbitration.

Thirdly, as the Government has not consented either to reinstate or compensate us we have asked for a Select Committee of the House to hear our case and report to Parliament which will then be informed of the facts and able to arrive at a fair judgment as to the merits of the question. The Government would incur no responsibility in granting this committee and need not adopt any of its findings unless they thought fit to do so.

Fourthly, I have suggested a reference to the Hon. Mr. Justice Burbridge of the Exchequer Court sitting as a Commissioner, to ascertain and report the facts, as he did in 1892 with several claims arising out of contracts to construct the Cape Breton, Oxford and New Glasgow Railways which were referred to him. In this case also, there would be no responsibility assumed by the Government in doing so.

So far they have not agreed to any of these proposals.

In conclusion Mr. Provand again called attention to the expenditure of \$4,000,000 by the company on the enterprise upon the good faith of the Dominion. He claimed there is no other instance on record anywhere of investors expending their own money on a public work not being allowed the time to complete it. He asserted the investors would not have put their money into the undertaking had they thought it possible they would receive such treatment and also that the investors had a substantial grievance and appealed to the sense of fairness of his audience for their co-operation in securing justice.

Replying to a question Mr. Provand said that the company had caretakers

along the Railway and everything, except the ties, wood work and cement which had deteriorated to some extent, was in good condition. The Railway could be completed in a summer and a half.

#### VIEWS OF MEMBERS.

Mr. Osler, Toronto, said he sympathized strongly with the company and hoped the government would come to a settlement with them.

Mr. Parmelee said it was claimed the railway could not be a successful commercial enterprise. If this was not so and the company had already spent \$4,000,000 he asked why the company should not go on and finish the work without a subsidy? He said that Mr. Provand had made out a strong case of the good faith of the country being pledged.

Mr. Gourlay said the company could not go on with the work without a revival of its charter.

Mr. Provand said the company would not spend anything to complete the Railway unless the subsidy was voted. To do so would be to put a premium on bad faith.

Mr. Lennox asked if Mr. Provand had taken any steps to have the matter brought before the House. He was interested and would like to see it before the House.

Mr. Gourley said that so far as he knew this was the only case in which Canada had failed to be honest and that he would do his best to promote a remedy. He was persuaded that both sides of politics would sink prejudices and do what was right.

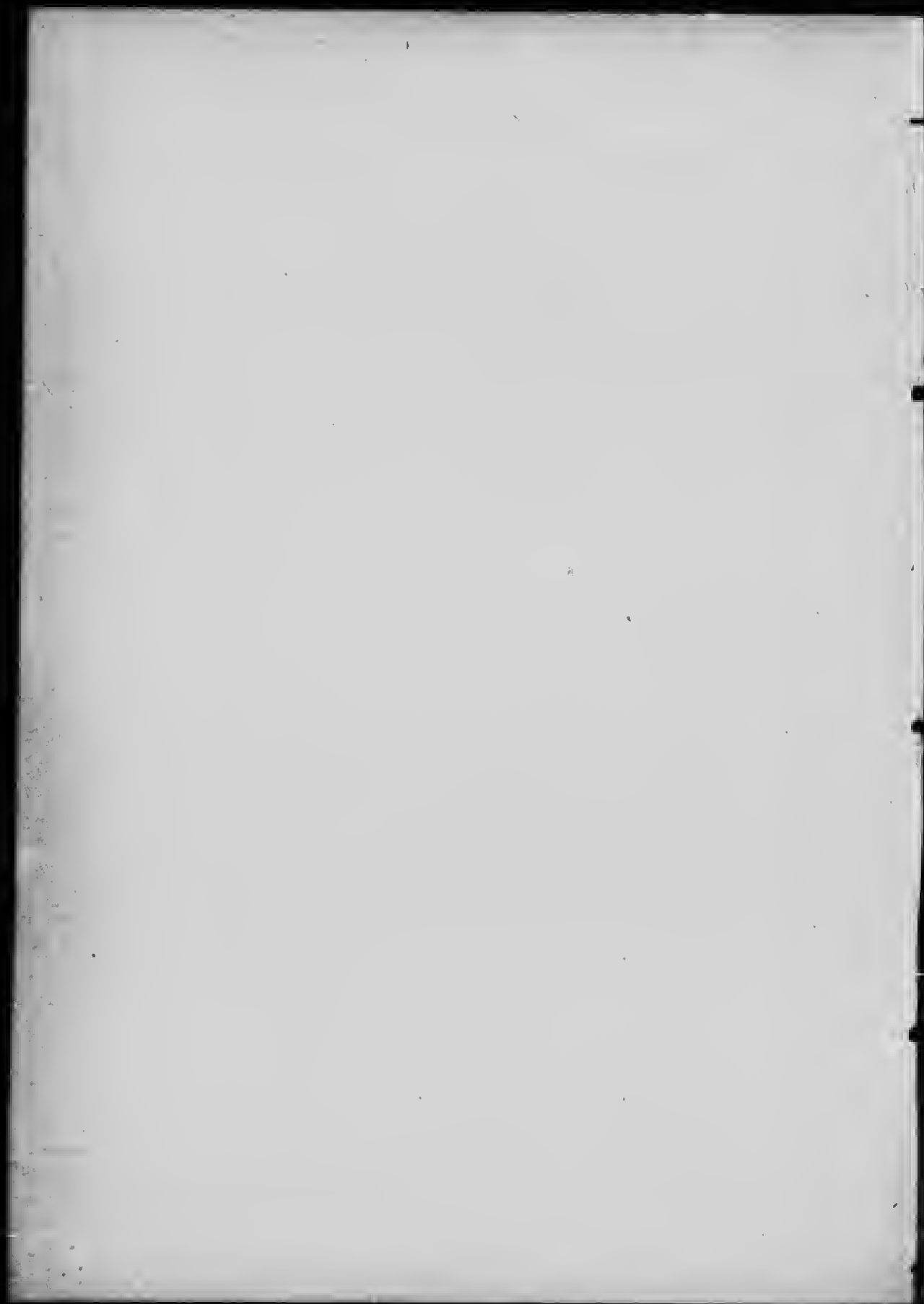
Mr. Kaulbach said he believed the Government had acted in good faith when the enterprise was first mooted. He pointed out that the disappearance of the ship building industry from Quebec, the Gulf and New Brunswick had brought about the change in conditions that led to the belief that the Railway would not be a commercial success. He expressed sympathy with the investors and said that anything he could do towards having them recouped to some extent he would do.

Mr. Copp said that if the country entered into the affair in good faith he thought the Government was in duty bound to fulfil its part. He said he would do what he could in this connection.

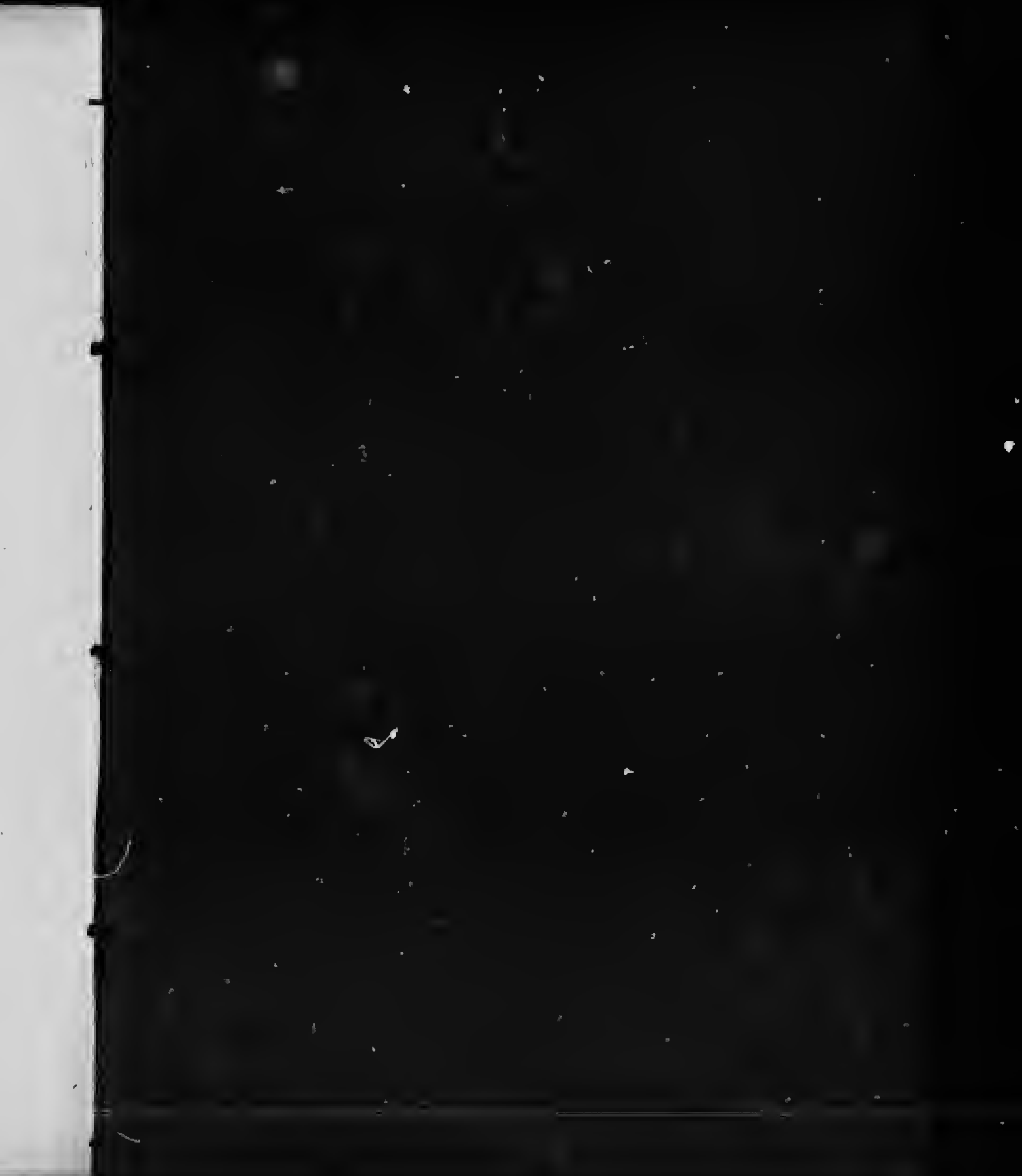
Mr. Barker said that Canada's position savored of sharp practice. The investors had not a shadow of legal claim but they and the Dominion went into the enterprise together and Canada should do the decent thing.

Mr. Provand said they had not made any legal claim, their right to have their subsidy revived was a moral and equitable right based on the practice of all Governments in such cases including Canada itself. He challenged inquiry into the facts by a Select Committee or by a Judge and the Government by not accepting this left it open to be said that they fear them. He then thanked the members for meeting him and for their promises of assistance in pressing the Company's claim until the Government settled it honorably.









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