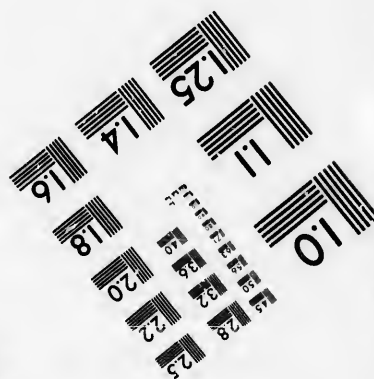
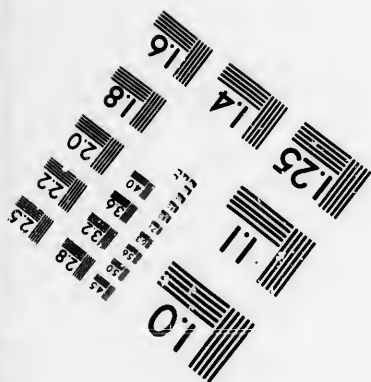
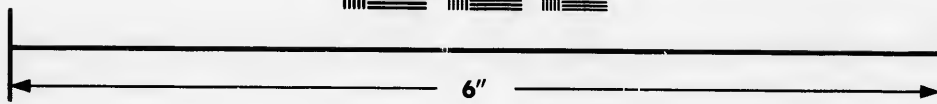
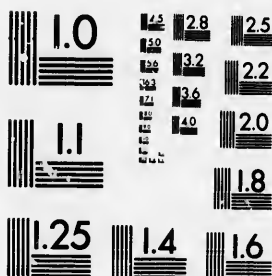


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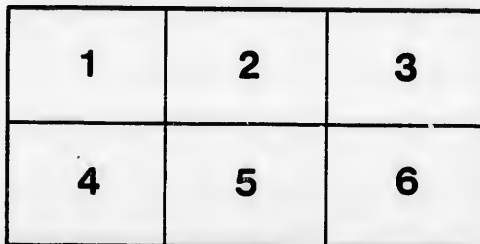
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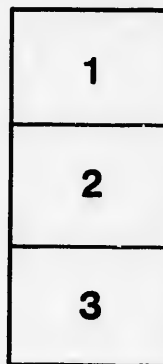
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The Late Mr. Justice Gale.

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The Late Mr. Justice Gale.

[From the MONTREAL HERALD, April 17th, 1865.]

We deeply regret to announce the death of this distinguished gentleman, long an ornament to the Bench of Lower Canada. We hope, in a future number, to be able to give some more extended notice of his career.

[From the MONTREAL HERALD, April 18th, 1865.]

Owing to some mistake, a few memoranda which ought to have reached us on Saturday, with respect to the late distinguished Judge, failed to come to hand, and we were thus obliged to postpone a notice of his life until to-day. The deceased Judge was, in the full sense of the word, a Colonist. His father was an assistant-paymaster of the forces serving in North America under the old Colonial *régime*, and was one of those officers who made up his mind to settle in the country. In pursuance of this intention he had prepared a valuable work on surveying, with special reference to the American Colonies, and, having left the service, married Miss Rebecca Wells, the daughter of Col. Wells, of Brattleboro', in what is now Vermont, but which was then a disputed territory between New York and some of the New

England States. He became, moreover, Clerk of the Court of Common Pleas, and on one occasion incurred a great deal of odium on account of an affair which was known as the Westminster Massacre. This was during the early days of the great rebellion, throughout which Mr. Gale adhered firmly to the side of the British Government. The Court sitting on the day in question at Westminster, the Court House was beset by a mob, and the Sheriff having called together his posse, forced his way in, and in doing so killed more than one of the rioters. The day following the tables were turned in favour of the popular party, and Mr. Gale was arrested, and was, with a short intermission, confined for more than two years, although several of the insurgent authorities reported from time to time that his imprisonment was unlawful. In fact he seems to have been much respected even by his opponents, for while he made no secret of his sentiments and intention to do what he conceived to be his duty, he persistently declared his resolution to engage in no underhand plots against the colonies. After his release he voluntarily withdrew to Quebec, and was made Provincial Secretary under Governor Prescott, besides obtaining one of those large grants of land which were accorded to refugee loyalists. He accompanied Governor Prescott to England, and defended him against the charges made against his administration of affairs in Canada. It was at this time that he wrote his work, "Public Credits," addressed to Mr. Pitt, which was rewarded by a pension, though we believe his ideas were not adopted. He afterwards returned to Canada and settled on his land grant at Farnham, where he died in his seventy-eighth year. The following is the inscription on his tombstone at Farnham, in Shefford County :

HERE RESTS

SAMUEL GALE, ESQ.,

Formerly Acting Deputy Paymaster-General of H. Majesty's forces in the Southern Provinces,
now the U. S. of America ;

Subsequently Secretary to H. E. the Governor-in-Chief of H. M. Dominions in N. A. ;

Author of Essays on "Public Credit," and other works ;

Born at Kimpton, Hants, England, Oct. 14, 1748 ;

Died at Farnham, June 27, 1820.

The late Judge was born at St. Augustine, in Florida, in 1782, while his father was in service in that part of the British Colonies, and educated chiefly at Quebec, after the settlement of his father in this country. He studied law under the late Mr. Justice Sewell ; was admitted to the bar in 1808 ; in 1815 was appointed a magistrate in the Indian Territories, and in that capacity accompanied Lord Selkirk to the North-West. During the stormy controversies between some of the Lower Canadian governors and the House of Assembly, Mr. Gale adhered strongly to the side of the government, as did most of the inhabitants of Lower Canada of British origin, and he represented that part of the population in England when Lord Dalhousie was attacked for his conduct in this country. In 1829, Mr. Gale became Chairman of the Quarter Sessions, and in 1834 replaced Mr. Uniacke as a Judge of the Court of Queen's Bench ; the latter gentleman resigning on account of the prevalence of cholera in Montreal at that time. Before this he had been, as we have intimated, an active and energetic politician, and in that capacity wrote a series of letters for this paper under the signature of "Nerva." It is unnecessary to say that the policy advocated in those letters, whatever merit it had or seemed to have at the time, was wholly set aside by the authority in whose name and behalf it professed to be put forward. The loyalists of Canada turned out to be *plus*

royalistes que le Roi; and after the failure of the armed insurrection which was the culmination of the struggle of parties, they had the satisfaction or mortification of seeing everything which they had striven against on behalf of the Imperial Government established by that government, and themselves thrown for years into a position of inferiority to the persons whom they had regarded and been taught to regard as traitors. The events immediately preceding the outbreak brought the political controversy into the courts, upon the question of the right of the government to proclaim martial law and to put in that proclamation as an answer to application for the discharge of a prisoner by *habeas corpus*. It would seem to-day, probably to most persons, an extraordinary breach of the liberty of the subject, even in a colony, if the government should venture upon such a proceeding before any overt acts of violence had taken place; though we have no doubt there would be plenty of defenders, even of such a course, among those who above all things admire the exhibition of force—if not directed against themselves. While some of the judges, however,—Messrs. Bedard, Panet and Vallieres—refused to acknowledge the authority of martial law, in the actual situation of the country, and were suspended by way of showing the independence of British judges, Mr. Justice Gale took the other view of the point raised, and maintained, no doubt most conscientiously, the propriety of the course adopted. In truth, it would be very unfair to judge of the question then raised by the notions now prevalent, and which have arisen from a new set of circumstances. Responsible Government had not then been granted, and while the popular party contended that the establishment of Parliamentary Government carried with it all the incidents of that Government as worked in England, the lawyer found reason for doubting when

the Sovereign had legally divested himself of any part of the Sovereignty in favour of other estates of the realm—in other words, whether the limited monarch of England was not an absolute monarch—or only not absolute, as controlled by the British Parliament—in a colony, and especially a colony conquered by force of arms. However that may be, with the Union Act the political side of the career of the late judge was at an end, and thenceforward his services on the Bench were confined to the ordinary routine of judicial life until his retirement on account of age and infirmity in 1849. His keen interest in all public events, however, continued long after his bodily strength had declined so far as to unfit him for active life. It was the good fortune of the conductors of this journal *idem sentire de republicâ* with the retired judge, using the latter word of the quotation, however, not merely in a restricted sense applicable to our own paltry politics; but intending it to include the great social movements of the world. This circumstance, and long acquaintance between him and the late chief editor of this paper, made the judge till within a few months a very frequent visitor at the *Herald* Office, and there were few things more calculated to stimulate a young man to the admiration and advocacy of whatever things are pure, just, humane and of good report, than the eloquent conversation of our venerable friend. At such times, though apparently bowed down by extreme bodily weakness, his spirit seemed to rise above all depression, and he would denounce what he conceived to be injustice, cruelty or fraud, in language as well chosen as if it were set down on paper, and with an emphasis and vigour of action such as usually belongs rather to oratory than to conversation. He had a mind of remarkable cultivation, and a memory which enabled him at will, even in extreme age, to repeat long passages

from poems or prose writings, some of which were learned from books now forgotten, but which had once had their vogue, and which threw a curious light upon the period or the event which he desired to illustrate. He also had a very amusing fund of anecdotes and personal recollections. Among the last we remember his telling the writer a few years ago, with a good deal of glee, that he had only then just had the hooping-cough. He added that he never had the measles until after his elevation to the Bench; special precautions having been taken by his parents to keep him from the contagion of these infantile diseases in his childhood. The measles were nearly proving fatal, and he remarked that he could not but feel that it was a great deal below the dignity of a Judge of Her Majesty's Court of Queen's Bench to die of so puerile a disorder as the measles. Among the subjects in which the late judge took a great interest was that of the emancipation of the negro race from the cruel slavery in which they have been so long held. We have seldom seen his indignation so much excited as it was by the apprehension that Anderson the slave would be given up under the extradition treaty, and we need not say that he watched the course of events in the United States with the warmest interest; rejoicing heartily in the success of the Republican party in 1860, as the interposition of a barrier to the farther progress of slavery into territory where it had not previously existed, and rejoicing still more, as in the development of events he was able to recognize the interference of Providence for the relief of the world from the presence of the crime which he so heartily detested. He was a liberal contributor on every occasion to funds intended to aid in the emancipation of the negroes, or, more recently, in the preparation of them for worthily taking their place as freemen. His sympathies in that direction

made him prepare an address to the Prince of Wales, during his visit to this country, on behalf of the coloured inhabitants of Canada—an address, however, which was not presented, owing to a desire of the Duke of Newcastle to avoid giving to the welcome of our future sovereign any appearance of sectionalism. It was, we should suppose, a practical contradiction of all his theories of right or wrong that he, on one occasion, took part in a duel, arising, we believe, between himself and a brother barrister, during the trial of a case in Court. But Mr. Gale was a man of high spirit and imbued with all the feelings of a gentleman, so that whatever abstract opinions he entertained, he could not bear any imputation on his character, such as thirty years ago would have followed upon his declining a hostile invitation. He was married to Miss Hawley, who has been dead some years, by whom he had three daughters.

