Vol. III] [Number 2

JOURNAL

OF THE

CANADIAN BANKERS' ASSOCIATION

JANUARY—1896

THE ECONOMIC CONDITION OF NEWFOUNDLAND

UP to a very recent date the economic condition of Newfoundland was justly regarded as peculiarly satisfactory. Its credit as a colony ranked very high. Its securities were everywhere looked upon with favor. Its business men were noted for the honorable fulfilment of their engagements, and failures among them were comparatively few. The business of the country itself was of that sober, substantial, non-speculative character which creates confidence. Occasionally the fisheries failed and even a series of unfavorable fisheries would occur; but these were always counterbalanced by a series of successful fisheries; so that though depressions were felt at intervals, as in all countries, the colony quickly rallied, and its general business continued thoroughly sound. Its elasticity in recovering from such periodic depressions became proverbial, and inspired confidence for the future. Whatever might happen, the fish wealth of its surrounding seas remained inexhaustible, so that ultimate recuperation was certain. Further, the market for its various fishery products, notwithstanding the keen competition of the

French and Norwegians, remained fairly good and did not vary to any serious extent, except in rare cases. The demand for fish never could fail; and while nearly all other articles of food decreased in value, the codfish—the grand staple of the country—showed a marked increase. For all these reasons the stability of business in Britain's oldest colony seemed assured. Panics or commercial crises, of a serious character, were unknown. Business was conducted on conservative lines. The safe "old paths" were strictly followed.

Then, as regards the public finances, their condition seemed no less satisfactory. The revenue was almost entirely derived from duties levied on imports. These duties were partly *ad valorem* and partly specific, but only to a slight extent differential, the tariff being designed for revenue purposes only, not for protection. There were no direct taxes of any kind. All expenses in working the general machinery of government were defrayed out of the revenue. In 1881, the revenue amounted to $1,003,803, having more than doubled during the previous twenty years. There had been a steady advance in the revenue each year without any increase of taxation. In 1882 the *per capita* taxation was only $4.94, with a population of 185,368.

The public debt showed that the financial position of the colony was exceptionally good. On the 31st of December, 1881, the consolidated and debenture debt of the colony was $1,351,-008. The amount *per capita*, with a population of 185,000, was thus a little over seven dollars. This was not all. This small public debt was more nominal than real. Of the whole amount, the Savings Bank, a Government institution, held $593,304, and, by an Act of the Legislature, the whole profits of this Bank were constituted a sinking fund for the liquidation of the public debt. This fund was to be applied, in the first instance, towards the payment of all debentures of the colony held by the Savings Bank. It was calculated that the effect of this Act would be that in twenty-one years from 1879, the year in which it was passed, all the debentures held by the Bank would be paid off, leaving only a debt of $757,704. Against this amount the colony had at that time to its credit $741,814, being a portion of the Halifax Fishery Award of one million dollars. Thus nearly the whole of the public debt then existing was pro-

vided for; and it was truly affirmed that the country was virtually in the unique and enviable position of being free from debt.

This was the golden age of Newfoundland finance, but this condition of primitive innocence was not destined to last. For some time previous to 1881 it had become apparent that as population increased, the fisheries, from which the people almost entirely derived their means of subsistence, were no longer adequate to support them. The fisheries, it was found, did not expand with the increasing population. On the contrary they were stationary, and in not a few localities were declining. When unsuccessful fisheries occurred increasing numbers were sunk in dire distress, often in such absolute destitution that relief had to be administered out of the public funds. The grant for poor relief had to be increased year by year. It became evident that other sources of employment must be opened up, otherwise the people must emigrate or starve at home. The great natural resources of the country were undeveloped. The fertile lands and rich forests of the interior were inaccessible from the want of roads and railways. The coal fields and mineral deposits were almost untouched. If the country was to advance it became clear that railways must be built. Without this great factor of civilization no further progress was possible. With it great possibilities were likely to be achieved.

The Legislature decided on the introduction of the railway system, to which, however, there was a strong opposition among the mercantile portion of the community. It was, however, justly argued that the steady expansion of the public revenue gave ample assurance that in the construction of a railway the colony would not be exceeding its means and could well afford to pay the interest on the debt thus incurred. It was also pointed out that with such rich natural resources lying undeveloped, railway building must prove a profitable investment, and that without it all these must remain dormant; that the experience of the past amply justified the expectation of a further increase of revenue; and that such public works, while in progress, would give employment and distribute large sums in the shape of wages among the people, thus increasing their comforts and purchasing power and leading to larger importations, to the benefit of the revenue.

Thus the colony took a new departure; but the policy now entered on was fully justified by subsequent experience. In 1881 the first sod of the new railway was turned, and in 1884 it was opened as far as Harbour Grace, a distance of 83 miles. Subsequently a branch line to Placentia was built, 27 miles in length; and in 1893, a contract was entered into with Mr. R. G. Reid, the eminent contractor, for the construction of the great trans-insular line, 500 miles in length, having its terminus at Port-au-Basque, and opening up the whole interior of the island. It will be completed by the close of 1896.

This bold but judicious policy was productive of good results. Large numbers of the working classes obtained employment at good wages. The colony prospered. The revenue increased. In 1883 it rose to $1,262,702, and in 1887 it reached $1,272,660; and in 1890, $1,454,536. Of course there was an increase of the public debt, which, however, was well represented by the miles of railway, the splendid dry dock in St. John's and the new Post Office—a most creditable building. No difficulty was experienced in meeting the interest on the public debt and all other liabilities. In 1884 the debt was $2,149,153; and in 1887, $3,005,040. In 1890 it reached $4,138,627; in 1892, as the railway advanced, it was $6,393,367; at the close of 1893, $8,255,546; and at the close of 1894, $9,116,534.

The revenue, however, during those years steadily increased. The four years, 1890-93 (inclusive), showed an average revenue of $1,730,833. In two of those years, 1892 and 1893, the revenue obtained must be regarded as abnormal, as the great fire of July, 1892, caused an increase of importations to replace what had been destroyed, and to provide materials for rebuilding the part of the city which had been devastated by fire; but allowing for this temporary increase, the revenue still showed a satisfactory advance. The annual expenditure, however, kept pace with this increase of revenue and some years exceeded it, showing that the colony was living up to its means and some years beyond them. In 1893, for instance, the expenditure was $2,110,012; the revenue, $1,753,844. It is not necessary at present to inquire whether this over-expenditure was justifiable. The effect was the creation of a floating debt which in 1895 had reached formidable dimensions, and was like a mill-stone hang-

ing on the neck of the colony, and presenting an ever-increasing deficit. From whatever cause, there was an extravagant expenditure and a want of due economy in making income and expenditure balance each other. The deficit was not promptly and determinedly dealt with. Still, this had nothing to do with bringing about the financial crisis which overtook the country. No provision, however, was made for the rainy day, and when it came the embarrassment caused by the floating debt was more severely felt, and the credit of the colony abroad was injuriously affected. But the condition of the revenue indicated that the general business of the country was in a healthy state.

The first blow to the prosperity of the country was caused by the great fire of July 8th, 1892, by which more than half the city of St. John's was laid in ashes and an immense amount of property destroyed. Though the individual losses were in some cases very heavy, and a few were utterly ruined, yet the calamity was not an unmixed evil and was attended by many mitigating circumstances. Fortunately the amount of insurances was large, and the insurance companies honorably and promptly responded to all claims. Most generous contributions from all quarters poured in for the relief of the suffering masses. Soon the demand for labor in rebuilding the part of the city destroyed was so great that wages rose to an unprecedented figure. Employment was abundant and money plentiful. The laboring classes suffered no permanent injury—rather the contrary—and the trading classes had a season of activity and prosperity. Credit was unimpaired, so great was the confidence everywhere in the recuperative powers of the colony. The city rose from its ashes with wonderful rapidity, and the new part was an immense improvement on that which was destroyed. Never did the spirit and energy of the people come out in a clearer light; never did they exhibit greater courage in facing difficulties. The sun of prosperity began to shine once more, and by the end of two years the greater proportion of the houses and stores which had perished in the flames were rebuilt, most of them on an improved plan; and in two more years hardly a trace of the fire would have been visible.

But just when the people were rejoicing in their returning

prosperity, a calamity, tenfold greater than the fire, fell upon them with the suddenness of an earthquake's shock. The 10th of December, 1894, the Black Monday of Newfoundland, will long be remembered in the annals of the colony. On that day the only two banks in the country—the Commercial and Union, through which the entire business of the community was transacted—closed their doors. The utmost confidence in these two long-established institutions had been cherished throughout the community. No apprehensions had been felt regarding their stability. But little gold or silver had been in circulation, the notes of the two banks constituting almost the entire currency. The shock caused by the announcement of their failure created widespread dismay, and a panic of a painful character followed. The people suddenly found themselves without a currency. All business was suspended. The shops and stores were left without customers, the people having no money to buy. Factories and workshops had to dismiss their employees. There was no means of paying wages, and no customers for the products of industry. No one would accept the notes of the banks, of which an immense amount was in circulation.

At first it was hoped that the suspension would be but temporary, but that expectation was speedily dissipated. Soon the public learned with dismay that the condition of both banks was bad in the extreme and that they would be wound up—that the shares were entirely worthless, and that the Commercial would not be able to pay more than twenty cents in the dollar and the Union eighty, to note-holders and depositors. A gloomy pall overspread the whole community. Many hundreds found themselves reduced to poverty; some were utterly ruined. The shareholders were mostly persons of the middle class, and the loss of their shares was a terrible blow. Many of them were widows and orphans, who found that their all was gone. The misery thus caused was widespread and severe.

The failure of the banks was speedily followed by the collapse of seven of the large mercantile firms, and a number of the smaller trading establishments. This added greatly to the load of suffering and deepened the gloom. The failure of one firm aided in bringing down others. Happily, however, a few were able to stand the shock. The long winter had set in, and

employment could not be obtained. Grave apprehensions of absolute destitution among the working people were felt. The depression continued to deepen as one failure after another was announced. It soon became evident that an appeal for aid must be made to the people of other countries. The response was prompt and generous, as in former cases of disaster.

It was impossible that the public finances could escape in this financial hurricane. They felt its force quite as much as the commercial and industrial establishments. Quarter-day was at hand; and not only had the official salaries to be met, as well as the grants to the various public services, but the half-yearly interest on bonds and debentures was due on January 1st, both in London and St. John's. Should the latter not be met the colony would be proclaimed a defaulter and ruin would follow. To add to the general disquietude, a severe run on the Savings Bank, a Government institution, commenced and continued. Importations from abroad almost ceased, and the revenue began to fall off at an alarming rate. Without a currency, business paralyzed, the people impoverished, national bankruptcy imminent, the community disheartened and almost in despair, the condition of the old colony seemed desperate. The financial storm had left it on its beam ends, and grave doubts were entertained whether it would right itself. No more trying crisis for a Government than that which had now arrived could be imagined. Their responsibilities were of the gravest character.

The question presents itself, what was the cause of these financial disasters which filled the island with "mourning, lamentation and woe"? How came it that the business of a country which, until recently, appeared to be sound and healthy, suddenly collapsed, like a house of cards? No mere accident or sudden panic brought it about. The causes which produced it had been at work for years, and the "crash" was but the inevitable culmination of continued violations of economic laws whose penalties follow as inexorably as in the case of violations of the law of gravitation. Now that the whole matter has been probed and laid bare, it becomes clear that the business of the colony had for years been conducted on false and unsound principles; and that a dangerous and vicious system of banking had furnished the means for conducting an unsound business,

and for a time had bolstered it up. By far the heaviest portion of the guilt must be laid at the doors of the banks and those who directed their operations. The facilities they presented for obtaining credit to an enormous extent, in most cases without any security, led to unsafe speculations and an inflation of trade which must have ultimately ended in ruin. In fact it had come to this, that a great portion of the capital required for carrying on the business of the country was drawn from the banks, uncovered by any security, so that these institutions had all the risks of the trade, and yet had no control over its management. Instead of using the funds entrusted to their care in the legitimate business of banking, so as by safe investments to secure a profit to the shareholders, the directors advanced very large sums to themselves and others without any reasonable security for repayment. Without their knowledge or consent, the money of the shareholders and depositors was withdrawn from the proper and profitable business of banks and used in the private business of individuals. The annual reports at the same time appeared to indicate that the business of the banks was prosperous, and the usual dividends were paid. All the while, the capital of individuals engaged in the trade had disappeared, being swallowed up in losing speculations, and had been replaced by constantly increasing loans from the banks, which for the most part were uncovered by any reasonable securities. Once the downward path is entered on it is difficult to retrace the steps, and the pace is sure to be accelerated. Not only were many of the large mercantile houses accommodated in the way described, but undue credit was extended to the smaller firms, in which the risk was even greater. This led to over-trading, the funds being supplied by the unconscious and unfortunate shareholders and depositors; while noteholders had no security, the defective Banking Act of the colony leaving them unprotected, and providing for no proper inspection of the banks.

There could be but one end to such a vicious system, which must have been foreseen by those who were responsible for such a misuse of trust funds. The death of a commission merchant in England, through whom a large part of the exporting business of the colony was carried on, precipitated the inevitable "crash." The supply of specie in both banks was small; their

funds were locked up in unrealizable assets, the value of which, in case of a panic, would shrink to an alarming extent, and nothing remained but to close the doors and face the inevitable.

The condition of the banks, on investigation, was found to be deplorable. In the Union Bank, the overdrawn accounts of three of the directors amounted to $1,194,375. In the Commercial Bank the overdrafts of the directors reached a still larger amount. There were no securities for the overdrafts. In each bank one director was found to have no overdrawn account, namely, Honorables Messrs. Harvey and Pitts; but of course all were responsible for the mode of conducting the business. As they are now called upon to answer for their conduct before the law courts, nothing further can be said. Both establishments had to go into liquidation.

It has been alleged that the condition of Newfoundland politics, the bitter animosities which characterized political contests, and the reckless extravagance in the expenditure of the public funds, of which both parties were equally guilty, had much to do with bringing about the financial crisis. Doubtless there is some truth in this statement. As far as the violence of party contests, and the exaggerated charges mutually preferred against each other by the contending parties tended to lower the character of the colony abroad and shake its credit, so far party conflicts were injurious to the best interests of the country. But, after all, these had little to do with bringing on the commercial crisis. As to the extravagant expenditure of the public funds, no doubt there were serious abuses connected with these, as in most countries having a democratic form of government. Public works were, perhaps, driven on somewhat too rapidly, and public improvements rushed at too fast a pace. But, as already stated, the advancing condition of the revenue amply justified railway construction for the development of the country's resources, which had become an absolute necessity; and till the "crash" came, no difficulty was experienced in paying the interest on the public debt. Even after the worst came, it was found that the total floating debt did not exceed two and a half millions of dollars. A loan to this amount was finally obtained at four per cent., and it was added to the consolidated debt.

It thus appears that local politics bore only a small share

in bringing about a financial crisis. The ruinous banking system must be mainly held responsible for the evil. Behind this, however, and lying at the root of the whole mischief, was the credit or "truck" system, which had been going on for generations. The merchants issued supplies to the fishermen at the commencement of each fishing season, taking the products of their labor in payment at the close. Apparently, for a time, all was serene, and in former days the merchants realized large profits. But the demoralizing effects of the truck system in due time affected the whole community. The bulk of the fishermen became hopelessly in debt; their honesty and industry were undermined. The system held out a premium to indolence. The cure of fish deteriorated. Only a part of the catch was handed over to the merchants; the rest was dishonestly disposed of. Then Nemesis overtook the supplying merchants. Badly cured fish brought ruinous losses in foreign markets. In the eagerness of competition with each other too high prices were given for fish. Their gains vanished. Their list of bad debts at home lengthened. Their business was carried on at a loss. Competition with French and Norwegians told heavily against them. Several large firms came to grief and others withdrew from the trade. In an evil hour the remainder had recourse to the banks for assistance. Over these they obtained control and used their funds liberally in their business by means of overdrafts, thus staving off the evil day, and hoping no doubt that some lucky chance would occur to set them on their feet. But violated laws are self-avenging. Retribution came at last and the storm burst over their devoted heads. If the result will be the abolition or sweeping curtailment of the demoralizing credit system, the "crash" will prove itself to be "a blessing in disguise." There can hardly be a doubt that such will be the effect.

It would be wrong to suppose that all the mercantile establishments were included in the foregoing account. There were happily a few whose business was conducted on sound economic principles and who were not dependent on the banks. They weathered the storm, and led the way to the establishment of business on a safer basis.

Turning now to the immediate effects of the collapse, the

first attempt made to grapple with the difficulty was by guaranteeing the notes of the defunct banks—the Union notes at 80 cents in the dollar and the Commercial at 20 cents. The Legislature passed an Act to this effect, but the relief thus afforded, though useful at the time, was but limited in its range. So great was the distrust that the guaranteed notes had but a small circulation. Few cared to take them.

The establishment of branches of three Canadian banks, of high standing, in St. John's, was attended with the best results and helped greatly in restoring confidence. These were the Bank of Montreal, the Bank of Nova Scotia, and the Merchants Bank of Halifax. A safe currency and means of exchange were thus provided, and the trade obtained legitimate assistance. Business began to revive and the people took courage. The Bank of Montreal extended a helping hand to the Government, and by a timely loan enabled it to meet all liabilities on the 1st of January and the 1st of April. A breathing time was thus secured. Money became more plentiful, and the shops began to resume their former appearance. The banks were placed in the hands of trustees, who proceeded to realize their assets. The bankrupt firms were also placed in liquidation. The destitute poor were provided for by the generous contributions from abroad. Factories and workshops began to resume operations, and employment became more plentiful.

Still more important was the success of the Seal Fishery of 1895, in improving the condition of affairs. It proved to be the best for many years, and the price of seal skins had considerably advanced. The clouds began to disperse and the wheels of commerce to revolve. The total value of the products of the seal fishery was not less than $600,000. Such a sum distributed among mercantile men and fishermen at a time of deep depression, could not fail to have a reviving effect.

The floating debt, however, still remained as an incubus, and the condition of the revenue created anxiety regarding the ability of the colony to meet its liabilities when quarter-day came round on the 1st of July, 1895. Great fears were felt and expressed that on that day the colony would be no longer solvent. This apprehension had a very depressing effect at home and exercised an injurious influence on credit abroad. The negotiations for a

union with Canada proved abortive, so that the outlook was dismal enough. Many were crying out for a Crown colony; more for a Royal Commission to examine into the whole condition of the colony, notwithstanding the improvement in trade which had taken place. To obtain a loan under such circumstances was generally regarded as hopeless. The credit of the colony was supposed to be irreparably damaged. If, however, a loan sufficient to wipe out the floating debt could be obtained, then retrenchment became possible, and all might go well.

The Hon. Robert Bond, Colonial Secretary, did not despair of the colony, and resolved to make an attempt to negotiate a loan. His efforts were crowned with success. He obtained in the London money market, on behalf of the colony, a loan of two millions and a half of dollars at four per cent., to be repaid in forty years. He also obtained a million of dollars* for the Savings Bank at 3½ per cent., so that this institution was rendered absolutely safe in any emergency. This loan was an immense boon to the colony. Not only was the floating debt paid off, but the credit of the colony was greatly strengthened. It furnished a proof that the kings of finance had formed a favorable opinion of the resources of the colony and did not despair of its future. So soon as the success of the loan was announced, the Government formulated a retrenchment policy, which was adopted by the Legislature. Its object was to make income and expenditure balance each other and to secure a surplus at the end of the financial year. A reduction of expenditure was made, and at the same time a moderate increase of taxation. The method of retrenchment will be described further on.

II

Will the country recover from the heavy blow which it has sustained? Will it, in the future, be able to meet its obligations and regain its prosperity? Will it have strength to continue

*The exact sum raised by the Hon. R. Bond in London for the Savings Bank, at 3½ per cent., was $850,000; the balance of $150,000 was obtained at an earlier date and at a higher rate of interest.

a self-governing colony, and preserve its independence? To answer these questions satisfactorily it becomes necessary to review briefly the natural resources of the colony, to estimate the degree to which the earning power of the people has been affected by the late collapse, and what will be the probable effect of the changes in the banking system, in the fishing industries and general finance, now rendered necessary by the overthrow of the old unsound system.

In forming an estimate of the future of the colony, its natural resources must be regarded as one of the main factors. Until rather recently, the fisheries were reckoned as almost the sole dependence of the people. Now, however, their views have expanded, and farming, lumbering and mining have entered into their calculations and give promise of great development.

Formerly, the idea of Newfoundland ever becoming an agricultural country was scouted. It was believed to be a dismal, fog-enveloped region whose savage climate and barren soil precluded all attempts at agriculture. The geological survey of the island has largely dissipated these notions. No doubt there are wide tracts irreclaimably barren, just as in Canada and the United States. But a careful examination has shown extensive belts of agricultural lands, mainly along the valleys through which the principal rivers run, around the heads of the great bays or by the margins of the smaller streams. In the aggregate, these fertile belts comprise no inconsiderable proportion of the whole area of the island, while large sections of the remainder could be utilized for grazing purposes. If we take the whole area of the island at 42,000 square miles, and deduct from this one-third for lakes and ponds, we have 28,000 square miles, of which fully a fourth, or 7,000 square miles, or 4,448,000 acres, are available for settlement, either as arable land or for stock raising, and are capable of sustaining a very large number of people in comfort. This is no mere random assertion, but rests upon the reports of the Geological Survey, of Government surveyors, who have been for years engaged in mapping the Crown lands, and on the accounts given by residents, by intelligent travellers and others who have visited various sections of the island.

The limits of this paper do not permit an enumeration of

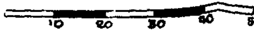
details. But it may be stated that the western portion of the island, in an agricultural point of view, is by far the most important, having in addition to a large extent of fertile soil, valuable forests, coal fields, marble, gypsum, limestone beds and mineral deposits. It is the carboniferous section of the country, the rocks of this formation always underlying good soil. The climate, too, is by many degrees superior to that of the eastern or southern shores, being entirely out of the range of fogs, while the cold, easterly winds, blowing over the Atlantic, are modified before reaching the western coast. The new railway, now under construction, runs through this region. In the near future it will be the seat of a large agricultural industry. To this will be added cattle and sheep raising, mining of coal, copper and asbestos. Beginning at Port-au-Basque, this region comprises the Codroy Valleys, St. George's Bay, Bay of Islands, Bonne Bay and the Humber Valley.

The great Valley of the Exploits is another fine region. The River Exploits has a course of 200 miles and drains an area of 4,000 square miles. The Geological Surveyors estimated that the Lower Exploits Valley alone contains 179,200 acres of reclaimable country. It contains besides large forests of pine and other valuable timber in which lumbering is now carried on upon a large scale. The valleys of the Gander and Gambo are of less extent, but contain good lands and are rich in forest wealth.

The almost exclusive employment of the people in fishing has hitherto led to the neglect of agriculture; but it is marvellous to find how great are the results of the limited industry as yet devoted to farming. The census of 1891 showed that there were 179,215 acres of land occupied. Of this 64,494 acres were cultivated lands, 20,524 acres were in pasture, 21,813 acres in garden, and 6,244 acres of improved lands unused. At the low estimate of $50 per acre, the land under culture is worth $3,224,700. The Return of the animals—horses, horned cattle, sheep, etc.—shows their value to be approximately $1,189,413. The value of the crops in 1891 was $1,562,398. The annual income derived from cattle, etc., is estimated at $520,000. Other items which may be added give a total of $2,295,398 as the value of the agricultural products of the island in 1891.

NEWFOUNDLAND

Scale 25 Miles to 1 Inch



When the small area under culture is taken into account this shows the agricultural capabilities of the island in a favorable light, and proves how unfounded were the old notions regarding the barrenness of its soil. At present the annual import of animals and agricultural products (exclusive of flour) is valued at nearly a million dollars. Now that a railway has opened up the fertile lands, there is no reason why nearly the whole of this importation might not be raised in the country and a million dollars retained in the country to give employment to the people. Then the proximity of the island to the Old World gives great facilities for the export of cattle and sheep, which could be raised in immense numbers.

In regard to forest wealth and lumbering, Newfoundland holds a very important place. The principal varieties of the indigenous forest growths are white pine, white and black spruce, tamarack or larch, yellow and white birch, fir. The large lumber trade already developed by the portion of the new railway, completed and operated as far as the Bay of Islands, furnishes ample proof of the forest resources of the country and gives good promise for the future. The pine lands of the Gander, Gambo, Exploits and Humber valleys are of great extent and value, and the export is increasing yearly. The limits of this paper do not permit a detailed account.

Copper mining was commenced, on a small scale, about thirty years ago. Up to 1879 the total quantity of ores exported from all the mines reached in value nearly a million pounds sterling. This placed Newfoundland sixth among the copper-producing countries of the world. It still maintains its character as a mining country. The customs returns for 1892 show that the value of the ore exported that year was $1,006,592. At the present time mining constitutes one of the leading industries of the country. It is yet in its infancy and the near future will witness great advances, as the new railway is opening up the interior. The verdict of the geologists warrants such an expectation. The large development of the serpentine rocks (5,000 square miles) is a fact of primary importance. These serpentines belong to the Lauzon division of the Lower Silurian series, which constitutes the metalliferous zone in North America. In this Lauzon division all the Newfoundland copper

mines are situated. The shores of the great Bay of Notre Dame are of serpentine formation, as are also its numerous clusters of islands. On the opposite side of the island, at Bonne Bay and Bay of Islands, there are also large developments of the serpentine formation. But copper is far from being the only mineral. Nickel, asbestos, iron pyrites, lead, silver and iron ores are found at many points and give promise of profitable developments. Gypsum and marbles, too, are widely distributed. The coal areas of the western coast await working. Quite recently petroleum has been discovered on the same coast. On Pilley's Island, Notre Dame Bay, is a very valuable mine of iron pyrites, which has been worked for eight or ten years. In 1894 there were shipped from it 38,214 tons of iron pyrites, value $195,780. Adjoining it and yet unworked is another deposit, believed to be even more valuable. Asbestos mining, on the west coast, is opening with great promise. Jukes, the eminent geologist, calculated that the coal field of St. George's Bay is 25 miles wide by 10 miles in breadth.

A very striking proof of the mining capabilities of the country, and the value of the railway in their development, has been furnished within the last two months, by the discovery of a coal area twelve miles long and six broad, near the eastern end of Grand Lake, and forty miles by rail from the Bay of Islands. It has been partially surveyed by Mr. J. Howley, F.G.S., the Colonial geologist. He estimates that one coal seam here, four feet wide, contains eleven million tons of coal; and there are six more smaller seams discovered. The new line of railway runs through the centre of this area. At Bay of Islands there is a magnificent harbor for shipping the coal. The coal has been tested and found to be of excellent quality. Mr. R. G. Reid is making arrangements to work this large seam next year. There is no reason why the whole island should not be supplied with coal from this centre. At no great distance from it is St. George's Bay, where iron is reported to be in abundance. This discovery greatly enhances the value of the railway.

Not less remarkable is the discovery last year of a deposit of iron ore on Bell Island in Conception Bay, only a dozen miles from the capital. There are two beds of ore on the island which have an area of two square miles. A mining expert of

high standing estimates that these contain fifty million tons of ore, so that practically they are inexhaustible. It is all surface mining; no pumping is required, so that the cost is reduced to a minimum. The ore tests 55 per cent. The New Glasgow Iron Co. have leased the property, and have already expended a large sum in preparatory works. The smelting will be done at New Glasgow. This ore contains just what the New Glasgow ore is deficient in, while the latter has what the other requires. The two when blended make a splendid quality of ore, equal to any manufactured at present.

It may also be mentioned that along the line of railway there are almost inexhaustible materials for a pulp industry on a very large scale.

Railway construction, as already stated, is making rapid progress. The line from St. John's to Harbour Grace, 83½ miles in length, was opened in 1884. The Placentia branch line, 27 miles in length, was opened in 1888. The returns of the former line, to Harbour Grace, show that, in 1893, 10,181 tons of freight were carried, for which was received the sum of $22,294; the earnings per ton per mile were $4.18, and the average distance hauled each ton was 52.40 miles. In the same year there were carried over the line 58,791 passengers, for which service the sum of $48,815 was received. This line has a subsidy of $45,000 from the Government and $7,200 for the carriage of mails.

The new line under construction, from Placentia Junction to Port-au-Basque, 500 miles in length, is making rapid progress, and is admirably built. Messrs. R. G. Reid & Sons are the constructors, and it is allowed on all hands that no better narrow gauge line exists in any country. At this date the line has reached Bay of Islands, a distance of 356 miles from the Junction, and 406 miles from St. John's, leaving only 144 miles to be built. By the close of 1896 it will be completed and operated to Port-au-Basque.* A short run of 100 miles, by swift steamers, across

*In connection with the new railway it is of importance to observe that the contract provides that the constructor shall operate the Northern & Western Railway from the completion of the Western Railway, for the balance of the time of ten years from 1st September, 1893. The first twelve years will be, of course, the most trying period, and the colony will be

the Gulf of St. Lawrence, will place travellers in connection with the continental railway system, and Newfoundland will almost cease to be an island. A tri-weekly or a daily mail will be secured by this route, and great possibilities for the future of the colony will be opened up. What the Canadian Pacific has done for the Dominion of Canada this Northern & Western Railway will do for Newfoundland. There are already about 1,200 miles of common roads in the country, and large additions will be made to these in order to establish connections with the railway from the more important points.

The fisheries of Newfoundland are so well known that only a very brief notice of them is required. They constitute the grand staple industry of the country, and will long continue to be the main source of employment for the people. The average annual value of the exports of codfish, the products of the seal, salmon, herring and lobster fisheries, Labrador included, is about $6,660,691. The fish consumed in the country is estimated at $400,000, so that we obtain $7,060,691 as the average annual value of the whole fisheries of the country. Of the whole population of 202,000, 54,775 are engaged in catching and curing fish. Even in his day Lord Bacon could declare that "the fisheries of Newfoundland contained richer treasures than the mines of Mexico and Peru"—a remark which time has amply verified.

The railway runs through the very heart of the Caribou country, where the finest deer are found in immense numbers. Here, with due protection, may be maintained the finest deer park in the world. Sportsmen from all quarters are coming here in increasing numbers; while the noble scenery of the island, and its cool, salubrious summers, are attracting numbers of tourists from the United States and Canada each year.

It is evident that an island possessed of such rich and varied natural resources has a great future before it. It may have its reverses and seasons of depression, but having such resources, it will rally and surmount them. It may at times, from a series of calamities, such as above described, be "cast down," but

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relieved of the responsibility of operating the line for that time. When the line is finally handed over by the contractor to the Government, it may be fairly assumed that a considerable business will have been worked up and the main difficulty surmounted.

it will "not be destroyed." Injurious methods of conducting the industries and trade of the country may depress and for a time impoverish it; misgovernment may retard its advance or disarrange its finances; bad fishing seasons may cause want, but while its great natural resources remain unexhausted and inexhaustible, it will recover from its adversities and press onward.

Its population is derived entirely from Saxon and Celtic elements—the best stocks in the world. It is very small as compared with the size of the island, numbering, in 1891, only 202,040, in a country which is one-sixth larger than Ireland. From 1874 to 1884 the increase was 36,209, or at the rate of 22.4 in ten years. From 1884 to 1891 there was a falling off, and the increase was only at the rate of 3.40 per cent. in ten years. This was caused by an increase in emigration, owing to deficient fisheries and other depressing causes, but with increased employment emigration will be checked and the increase of population will resume its normal rate.

The imports in the period from 1885-94 were as follows:

Year	Value	Year	Value
1885	$6,698,500	1890	$6,368,855
1886	6,020,036	1891	6,869,458
1887	5,397,498	1892	5,012,877
1888	7,420,400	1893	7,572,569
1889	6,607,665	1894	7,164,738

These imports include the various necessaries and luxuries of life—such as flour, 367,949 barrels, value $1,471,796; molasses, 867,692 gallons, value $268,206; pork, 15,116 barrels, value $246,126; tea, 886,648 pounds, value $144,575; sugar, 26,274 cwts., value $85,817; tobacco, 667,645 pounds, value $83,333; manufactured goods, wine, ale, porter, rum, brandy, whiskey. These figures apply to the imports of 1893.

The exports in the same period were as follows:

Year	Value	Year	Value
1885	$4,726,608	1890	$6,099,686
1886	4,862,951	1891	7,437,158
1887	5,176,739	1892	5,651,116
1888	6,582,013	1893	6,280,912
1889	6,122,985	1894	5,811,169

The exports are almost entirely the products of the fisheries. In 1893 there were exported from Newfoundland and Labrador 1,175,836 quintals of dried codfish, 112 lbs. to the quintal, the value of which was $4,328,499. The export of herring reached 107,215 barrels, value $227,288; that of lobsters, 35,403 cases, value $265,522; of fish oils, 5,932 tuns, value $217,484. The

value of seal skins exported was only $116,456, the seal fishery having proved a failure. The value of salmon was $46,108. The export in 1893 of copper (ore and regulus) was 45,431 tons, value $410,795. In addition, 37,889 tons of iron pyrites were exported to the United States, value $227,334, making the total value of ores exported $638,129.

The following figures show the condition of the revenue since 1880:

Year	Revenue	Year	Revenue
1880	$ 897,474	1888	$1,370,029
1881	1,003,803	1889	1,362,893
1882	1,119,385	1890	1,454,536
1883	1,262,702	1891	1,820,206
1884	1,209,316	1892	1,883,790
1885	1,009,222	1893	1,753,844
1886	1,040,424	1894	1,640,945
1887	1,272,600		

The great bulk of the revenue is derived from customs duties. Thus, taking the revenue for 1894, amounting to $1,640,945, the portion derived from customs was $1,499,379, and only $141,566 from other sources, such as postal revenues, $45,600; Crown lands, $4,261; light dues, Imperial Government mail subsidy, $19,200; fees of various kinds, dry dock, $3,390.

The public expenditure from 1885 to 1893 has been asfollows:

Year	Expenditure	Year	Expenditure
1885	$1,376,184	1890	$1,993,288
1886	1,666,662	1891	1,831,432
1887	1,738,291	1892	1,668,120
1888	1,831,441	1893	2,110,012
1889	2,208,735		

The foregoing expenditure includes the entire civil service, and the interest on the public debt. It will be noted that in late years the expenditure frequently exceeded the income.* This, of course, led to additional loans to wipe out the floating debt, at intervals. That by the application of care and economy to the civil service the expenditure can be very considerably reduced without seriously impairing its efficiency, no one can doubt. Under all governments, there has been of late a tendency to lavish expenditure, and a disregard for deficit at the end of the fiscal year, so long as these could be met by loans.

*In regard to the expenditure of the colony over its income, it must be remembered that the table of expenditures given for the several years includes expenditures on account of loans for public works on capital account. This, of course, presents matters in a more favorable light.

The necessity for retrenchment has been forcibly impressed on the mind of people and Government by the late financial crisis, and the Government have undertaken to carry out "drastic" retrenchment so as to adjust expenditure to income, and secure a surplus at the end of the year instead of having to face a deficit. Should this retrenchment, aided as it is by a very moderate increase of the tariff, be honestly and courageously carried out, there is no reason why, with reviving trade, the colony should not regain its former sound financial condition and be able to meet all its liabilities without any undue strain. If present difficulties are met successfully and tided over, there need be no anxiety regarding the future of a colony possessed of such resources as those described in the foregoing pages.

The proposed retrenchments amount to no less than $494,000, the principal reduction being under the following heads:

Official salaries are to be reduced as follows: Those under $6,000 and over $2,400, one-fifth off; between $1,600 and $2,400 inclusive, one-sixth off; between $1,200 and $1,600 inclusive, one-seventh off; between $1,000 and $1,200 inclusive, one-eighth off; between $800 and $1,000 inclusive, one-ninth off; between $400 and $800 inclusive, one-tenth off.

Reductions are also made in the grants to the following services: Customs department, pauper relief, steam subsidies, legislative contingencies, printing and stationery, repairs to public buildings, judiciary and police, special grant to districts, road expenditure, education grant.

With the saving thus effected of $494,000, the estimated expenditure for the present fiscal year is $1,331,000, while the estimated revenue for the year is $1,725,022, leaving an estimated surplus of $394,022.

The following figures show the total cost of governing the colony under the retrenchment policy now in operation. Provision for the interest on the public debt and every item of expenditure connected with the various civil services are included in this list. By comparing it with the table of expenditures during the last three or four years, it will be seen to what extent these expenditures are controllable, and what a large reduction can be effected in the cost of governing the colony, without crippling the public services, by a judicious economy:

Condensed Financial Statement for the Year 1895-96

Item	Amount
His Excellency the Governor	$7,000
Private Secretary	822
Governor's Orderly	360
Fuel and Light	450
	8,632
Colonial Secretary's Office	5,872
Receiver-General's Office	4,006
Customs' Department	70,017
Board of Works	6,241
Colonial Building	1,500
Legislative Contingencies (including salaries of Members of both Chambers, reporting debates, printing, etc.)	34,365
Crown Lands Office	12,064
Government Engineer's Office	3,628
Judicial Department	25,208
Police Department	87,371
Court House and Gaols	5,000
Ferries	6,400
Postal Department	85,590
Repairs to Public Buildings	4,600
Steam Subsidies	76,760
Relief of the Poor (including lunatic asylum, hospitals, poor house, permanent and casual poor, shipwrecked crews, etc.)	145,458
Pensions	4,256
Education Grant	122,923
Interest on the Funded Debt	460,000
Fog and Noonday Guns	948
Block House	610
Miscellaneous (including printing, postages, telegrams, unforeseen contingencies, insurance on public buildings, grants to Dorcas societies, to encourage shipbuilding, maintenance of telegraph lines, lighthouses, railway subsidy, $45,000)	155,375
Total	$1,327,774

It is perfectly possible to maintain the whole machinery of Government in efficiency for the above-named amount. If we estimate the revenue at the low average of $1,500,000, it will be seen that a sufficient margin would be provided for the anticipated increase in the interest on the public debt on the completion of the railway at the end of next year, and for all other contingencies that might arise; so that the financial condition of the colony would be thoroughly sound. It should also be remembered that once the railway is completed no more loans will be required.

Now it may not be found practicable to carry out all these retrenchments to the exact letter. Unforeseen contingencies may arise necessitating expenditure to some extent, in certain direc-

tions, beyond the Legislative grants, on "executive responsibility." Still there is no reason to anticipate any large expenditure on such accounts, which would seriously interfere with the proposed retrenchment. It should also be considered that the plan of the proposed retrenchment was somewhat hastily concocted, and doubtless experience will suggest readjustments which will remove many objections now urged against it, and render it more efficient. In the present stage it is largely an experiment, but there is no reason why it may not be carried into effect. It will not only reduce an expenditure which for the government of 202,000 people is certainly large, but it will, in its application, tend to reform many of the abuses connected with the public services and help to purify the political atmosphere, and promote a healthier tone of public sentiment. In every way it is desirable. Instead of condemning the Government in advance, and accusing them of want of sincerity in the proposed retrenchment, in common fairness they should be allowed an opportunity of carrying out their policy, and be judged by the results. Should it prove successful, it will be one of the most important reforms of recent years and will greatly help to stabilitate the credit of the colony.

Of course everything depends on the revenue, which, in its turn, is dependent upon duties on imports. The revenue, which had declined seriously for a time after the crash, has steadily improved as trade revived, and has already regained its normal condition. For the month of September, 1895, it was only ten per cent. less than for the same month of 1894. The following figures show the comparative condition of the revenue in the month of October of the years named:—

1893	$138,906
1894	136,065
1895	153,381

It thus appears that the revenue for October for the present year exceeded that of the same month last year by $17,316, and that of October, 1893, by $14,475. The November revenue of this year, up to date, is equally satisfactory.

This remarkable improvement in less than twelve months, after one of the most severe financial disasters which has ever fallen on any community, shows the marvellous recuperative power of the colony, and the elasticity of its trade, as well as

the energy and courage of its people. The good fisheries of the year, combined with an excellent land harvest, have had much to do with this favorable reaction and the rapid removal of the commercial depression. The good seal fishery of the spring has been followed by one of the best summer fisheries experienced for many years. Not only has the catch been large, but owing to favorable weather and greater care, the cure has been superior to that of recent years, thus considerably enhancing the value of the products. The result has been that business has largely resumed its former activity. The shops, stores and wharves present their usual busy aspect; money is plentiful; and the cash trade this season has been the best for many years—a proof that trade has reached a sounder basis. It is evident the people are forgetting their misfortunes and looking hopefully towards the future.

To the fishermen the change promises to be especially beneficial. In one way and another they all obtained, at the beginning of the season, the means of carrying on fishing operations. They were contented with far more moderate supplies than formerly. It cannot be doubted that in the future they will work with greater energy, now that the depressing credit system, involving them hopelessly in debt, is curtailed, and their earnings paid in cash. The overthrow of the ruinous truck system was worth almost any amount of suffering. It was the great incubus on the industry of the country. Of course a certain amount of credit will still be necessary, but it will be kept within safe and proper bounds.

The introduction of the Canadian system of banking has had an excellent effect in restoring confidence. While these banks extend all legitimate assistance to those in business, no overdrafts are permitted and no hazardous speculation is encouraged. All attempts at gambling in the purchase of fish, for which the old system of banking presented facilities, are now frowned upon and prohibited. The notes of Canadian banks are known to be absolutely safe, so that in them an ample and reliable currency is provided. It is understood that the new banks are fully satisfied with the amount of business and the conditions of trade.

For many years the revenue has suffered severely by a

system of smuggling carried on by small coasting vessels from St. Pierre. Owing to the great extent of coast and the great number of small settlements, the practice has been found very difficult to suppress. Latterly it has developed into somewhat alarming proportions. The Government are at length thoroughly aroused to the necessity of stamping out the system, and are putting forth energetic efforts in that direction. Were smuggling suppressed, from $100,000 to $150,000 would be added to the revenue.

It may be well to point out that in all probability the Government have made an over-estimate of the revenue for the current fiscal year, and placed it too high. In fact, from the want of proper data, their estimate, of necessity, was rather a conjecture than a calculation. If the colony can meet all its liabilities during the year—and, as has been shown, there is no reason to doubt its ability to do so—such a result under the circumstances would be highly satisfactory. Even though there should be no surplus, or only a small one, no anxiety need be awakened and no financial crisis need be apprehended. It would only mean that a miscalculation in regard to the amount of revenue had been made. Should the colony make ends meet during the first year after the crash, and be able to show even a very moderate surplus, under the retrenchment policy, it would be unreasonable to look for more.

It may not perhaps be out of place to refer to the recent appointment of Sir Herbert Murray as Governor of Newfoundland. He is a gentleman of large experience in financial matters; so that his services are likely to be of great value to the colony at the present crisis in its affairs, and to aid in restoring confidence abroad.

The truth is, this is by no means such a poor country as outsiders are inclined to believe. When the "crash" came on the 10th of last December there were on deposit in the Savings Bank nearly three millions of dollars, and about two millions in the other two banks—five millions in all on deposit, or over $24.5 per head for the entire population. This was not all. It was found that very large sums were hoarded, especially in the outlying districts, in bank notes and gold. The run on the Savings Bank lessened the deposits probably by one-half, much of

which is hoarded, because of the distrust of all banks engendered by bitter experience. With returning confidence these amounts will find their way back to the banks and become productive.

There is another point in favor of the colony which may be mentioned: the property of individuals is less burdened with mortgages than in the case of any of the neighboring provinces. In fact, judging by the number of mortgages on property, a very large proportion of the people are free from debt.

Some allege that the public debt of the colony has attained such dimensions that it will be impossible to carry on the public services and meet the interest, so that a collapse is imminent. No doubt at first sight the debt looks formidable, but when more closely considered, it will not be found at all unmanageable even now, and with an increasing population and fairly prosperous times it will not be so difficult to shoulder in the future. The total funded debt of the colony at the close of 1894 was $9,116,534. The charge for interest in 1894 was $380,855. The total funded debt of the colony, at the close of 1895, will be about $13,900,000. This includes the new loan and probable payments on account of the railway, also the municipal indebtedness of St. John's, amounting to $1,657,793. The amount required to provide for interest and sinking fund at the close of present fiscal year will be $495,000. The amount required to provide for interest and sinking fund after the railway is completed will be $576,500. The public debt on the completion of the railway will be $15,225,200.*

*It is worth while to compare Newfoundland's present indebtedness with that of other colonies. At the present date Newfoundland's funded debt (recent loan included) is per head $58. The following table shows the public debt of the principal colonies in 1893, according to Burdett (1895):

New South Wales, per head	$240
South Australia	300
Tasmania	245
Cape of Good Hope	80
Natal	65
New Zealand (since increased)	285
Queensland	350
Dominion of Canada	48
Victoria	200
Western Australia	190

When we take into account that the proposed retrenchments amount to $494,000, or only $82,000 less than the amount required for interest on the debt, it will be seen that no difficulty need be anticipated in regard to meeting the interest. Should a surplus arise it might be used in reducing the debt.

Then it must also be remembered that this debt is represented by public works of utility—by 610 miles of railway designed to develop the resources of the country, by lighthouses and breakwaters, by the St. John's dry dock and the general post office, as well as by common roads to the extent of 1,200 miles. Public works also serve another purpose—they distribute money in wages while they are in progress, and by increasing the imports increase the revenue.

On the whole, then, we are abundantly justified in taking a hopeful view of the economic condition of Newfoundland. The earning power of its people has not been reduced by the late collapse. Its business is placed on a stronger and safer foundation than before the crash. A vicious and ruinous banking system has been swept out of existence and replaced by one of the best in the world. The old credit system has at least received notice to quit, and can never be re-established. A load of debt being removed from the shoulders of the fishing portion of the population, they will work with new hope and energy. New employments for the people are opening up in farming, lumbering and mining. A spirited and energetic people are courageously facing their difficulties. The lessons of recent calamities will not be lost on either Government or people. A few years hence the colony will be in many respects a NEW LAND.

M. HARVEY

St. Johns, Nfld., 20th Nov., 1895

NOTE BY THE AUTHOR.—In support of the views given in the foregoing pages it is important to know that the Government has placed, in London and St. John's, the full amount required for the payment of the half-yearly interest on the public debt, due Jan. 1st, without trenching on the recent loan, and entirely out of the current revenue for the year. When it is remembered that this is done during the first year after our terrible commercial crash, we see abundant proof of the sound economic condition of the colony, after all the storms it has passed through; and we are fully warranted in entertaining hopeful views of the future. All other payments in connection with the public services for the quarter are also provided for out of the current revenue.

THE RESOURCES OF BRITISH COLUMBIA WITH SOME ACCOUNT OF THEIR RECENT DEVELOPMENT

BEING THE ESSAY IN COMPETITION II TO WHICH THE FIRST PRIZE WAS AWARDED

WHEN, in 1871, the Province of British Columbia was added to the Dominion of Canada, immediate benefits to each beyond political considerations were but uncertain. That great factor in unity—ease of communication—was lacking, and was not supplied for fifteen years. Till then the Dominion had as little practical evidence of the possession of a Pacific Province as if the latter had been situated in South Africa; and the Province, in its turn, had to look to San Francisco as a base of supplies, and to expect mails and settlers to be conveyed by way of the United States or Cape Horn. No adequate and inviting means of communication with the interior existed, and the country, beyond its borders, was regarded as fit for little but a field for the adventurer and sportsman. But when the Canadian Pacific Railroad was successfully completed, a new era began, and, for practical purposes, British Columbia as a Province of the Dominion came into existence.

One hundred years ago the country had just been discovered. Cook and Vancouver had made exploratory voyages along its coast, to be followed by a few adventurous trading vessels in search of furs. On the same mission came representatives of the North-West and Hudson's Bay Companies, who made their way through dangers and hardships from the east, and have their memories perpetuated in the rivers bearing their names, which brought them to the coast. The territory later came under the permanent occupation of the Hudson's Bay Company, with their headquarters at Victoria, on Vancouver Island, and was named "New Caledonia," and had reached the initial stage of development—that of a "fur country."

In shape the province, thus first settled, is an irregular

parallelogram, lying on the Pacific Coast between 49 degrees and 60 degrees of north latitude, and having an average width of 400 miles. Its area, including that of Vancouver Island—which shelters for 250 miles the more southerly portion of the coast of the mainland—is estimated at 383,300 square miles—a larger area than that of any country in Europe except Russia. The coast line on both island and mainland is sinuous and indented to a remarkable degree. The interior of the country is described by geologists as belonging to the Cordillera belt of the west coast, and comprises the Rocky, Gold and Coast ranges of mountains. The existence of Vancouver Island is due to the appearance of a fourth and submerged range. Between and through these ranges flow the other distinguishing features of the province, its rivers—the Fraser, Skeena and Stickeen, with part of the Columbia and Peace. Separating the basins of the Columbia and Fraser rivers, and extending northward, lies an elevated table land; the rest of the province consisting, generally speaking, of alternations between mountain and valley.

Considerations of, and criticisms upon, the state and prospects of British Columbia must have regard to the fact that accurate knowledge of the country is confined to its southern and coast districts. Much of the northern portion has not yet been surveyed. In consequence of this, and of its present-time inaccessibility, not only has no development there taken place, but its very possibilities are but guessed at. If they prove as great as those in districts already known, no adequate computation of the prospective wealth of the province has yet been made.

Transition from the standing of a fur country to that of one yielding gold was of a somewhat sudden and unexpected nature, but was what first awakened interest in its possibilities. The gold excitement of 1849, which had brought a motley crowd of adventurers to California, had scarcely passed its height when a report was spread of gold discoveries on the Fraser river, and in a few weeks thousands were camped at Victoria. Considerable reduction was, however, soon made in their numbers when the difficulties of penetrating beyond the coast were realized, but to the pioneers who remained British Columbia owes the recognition to that mineral wealth which,

from the very configuration of the country, must ever remain its chief resource. While nature has not afforded inducements for settlement in the way of a general and unstinted productiveness, she has laid up—now proved beyond a doubt—vast stores of gold and silver, coal, iron, copper and other minerals, as the reward of enterprise. Her gifts in the matter of forests have been lavish in the extreme, and these are destined in the future to serve as a store for half the world. She has filled the waters with fish, affording most palatable and nutritious food, and has altogether so neutralized the rugged, forbidding features of the country as to fit it for the home of an industrious, wealthy race.

GOLD.—In seeking to trace the progress that has been made towards development of the mineral wealth of the Province, gold, the original attractive feature, first claims attention. Its distribution is general—so general that there are few districts which do not show evidences of its presence in at least a small degree. Previous to the great gold excitement it had been discovered and worked in the Queen Charlotte Islands; but from 1858 interest was almost entirely confined to the Fraser river, and the district drained by it. The early prospectors, believing that the fine gold discovered on the "bars" of the lower Fraser was only an indication of richer deposits in the interior, made their way in face of great hardships to the Cariboo District, some four hundred miles from the sea, and there found their anticipations of rich deposits more than realized. Less primitive methods than those previously in use were adopted, shafts were sunk, tunnels were run, and pumping machinery introduced, with the result that the output of gold of the Province for the years 1862-3 was estimated at something over $4,200,000. The output for 1864 alone was estimated at $3,735,851, since which year figures have shown a gradual but steady decrease, rising slightly in 1894. Already, however, the province has contributed gold of an approximate value of $50,000,000 to the stock of the world. For the purpose of comparison the following figures may be taken:

Year	Value of Gold
1870	$1,336,956
1880	1,013,877
1890	494,435
1892	399,526
1893	379,535
1894	456,000

So far all has been produced by alluvial or placer gold mining, with light appliances, and with supplies and labor commanding almost prohibitive prices. "The cheapening of these essentials," says Dr. G. M. Dawson, of the Geological Survey, "produced by improved means of communication, and by the settlement of the country, coupled with the attendant facilities for bringing heavy machinery and appliances into use, will enable the profitable working of greatly extended areas."* The increased yield for 1894 may be ascribed to the adoption of heavier plant and systematic methods by a few mining companies which have in the last two or three years been preparing the way for hydraulicizing operations on a large scale, and the season about to open should witness a much greater output from these sources.

As yet "quartz," or vein mining, has received no practical attention, though evolution in the future towards that from present methods will only be natural. The authority quoted above says the following on this point: "It becomes important to note and record the localities in which rich alluvial deposits have been found. . . . . Their existence points to that of neighboring deposits in the rock itself, which may be confidently looked for, and which are likely to constitute a greater and more permanent source of wealth than that afforded by their derived gold." This has been verified in California and Australia, while the Treadwell mine in Alaska pays richly at the rate of $3 for every ton of quartz mined, and is situated in rock formations identical with those of the coast region of British Columbia.

SILVER.—When the Cariboo excitement had waned considerably, and the more profitable diggings had all been worked, some adventurous spirits pushed their way eastward to the wild region in the neighborhood of the Bend of the Columbia, meeting with considerable success, but with more importance attaching to ultimate results than to their actual profits. From this district another band, prospecting to the southward, in 1886 accidentally stumbled across an outcrop of ore, which proved to be rich in silver, associated with copper. From this discovery

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*DAWSON'S *Mineral Wealth of British Columbia*, p. 45.

dates the opening of the Kootenay district and the development of silver mining therein.

For a time satisfactory progress was retarded by the exaggerated values placed on claims by their discoverers, themselves without means of opening them up, and by the difficulty in local transport of large quantities of ore. The first obstacle has removed itself naturally, the second is being overcome in the construction of trails and short lines of railroad connecting the natural water-ways. As late as 1892-3 discoveries of silver ore, phenomenally rich, were made in what is known as the Slocan group of mines, a trustworthy assay of seventeen specimens from which giving a silver average of 178 oz. per ton, and a lead average of 61%. From September 13th, 1894, to March 16th, 1895, 4,641 tons of ore, valued at $473,000, were shipped from this district alone; while for 1894 the entire value of silver ore shipped from the province was $793,460, against a yield of silver for the years 1889 and 1890 of an estimated value of $47,873 and $73,984, respectively. Hitherto there has been no adequate and permanent means of treating ores in the province, all having to be sent to smelters at Omaha or Tacoma; but a smelter on Kootenay Lake commenced operations so lately as the 11th of March, 1895. British Columbia's first export of base bullion ever made was from this smelter on the 17th day of the same month.

It is a very significant fact that these important developments in silver mining have taken place at a time when silver has commanded an abnormally low market price, and when the industry elsewhere has been exceptionally depressed. It is also remarkable that the majority of the mines are worked by American capitalists and miners with experience brought from the silver mining States, and that the entire products pass directly over the boundary line. Physical features and railroad connections favor this last result.

COAL.—Preceding the discovery of gold was the recognition of the existence of coal on Vancouver Island in the year 1835, from which date small quantities were used for smithy and other purposes by the Hudson's Bay Company's agents. In 1850 well defined and extensive deposits were discovered at

Nanaimo, and in 1852 actual work began. Further discoveries have since been made, and the coal measures on Vancouver Island alone are estimated as covering 500 square miles. The industry has made steady advances to the present time, the last few years alone showing fluctuations. From 1852 to 1859 25,400 tons were shipped from Nanaimo, comparative production since being as follows:

Year	Tons
1860	14,250
1870	29,850
1880	268,000
1890	678,140
1891	1,029,097

The output for 1891 has not since been equalled, the nearest approach to it being that of 1894, 1,012,953 tons. In quality the Nanaimo coal is superior to any worked on or near the Pacific coast, and even with price heightened by duty, commands a better market in San Francisco than any duty-free competitor. Diminution in production is not regarded as permanent, being due to trade depression; and the industry has for many years been a staple one, having long been established on a most satisfactory financial basis.

Coal occurs in many districts throughout the province, ranging in character from anthracites to lignites, but, as far as interior beds are concerned, the difficulty and expense of shipment are so great that little has yet been done toward development. Just beyond the eastern boundary, and on the main line of the Canadian Pacific Railroad, is a valuable anthracite mine in active operation. The survey for the alternative railway line through the Crow's Nest Pass proved the existence there of beds phenomenal in thickness, while other deposits are elsewhere recognized in proximity to indications of iron.

OTHER MINERALS.—Gold, silver and coal, though ever likely to remain the chief factors of mineral wealth to the province, do not by any means constitute all. Large deposits of iron—already worked to some extent—copper, mercury, iron pyrites, plumbago, mica, and asbestos are known to exist. Platinum has lately been produced in more considerable quantities than in any other part of North America, and as the pro-

vince becomes more thoroughly explored, "it seems probable," says Dr. Dawson, "that few minerals or ores of value will be found to be altogether wanting."

LUMBER.—Some idea of the value of the lumber resources of British Columbia may be gathered from the inferences drawn by Mr. George Johnson, Statistician to the Department of Agriculture, in the recently published report on the forest wealth of Canada. One of these is to the effect that, with the exception of spruce as to wood, and British Columbia as to provinces, Canada is within measurable distance of the time when it shall cease to be a wood exporting country. This at once places a high value upon the existing growth of timber in the province, and implies a resource when similar ones in other parts of the Dominion shall have failed. Prevailing climatic conditions have fringed the bays and inlets of the coast with timber, of exceptional size and density of growth; the mountain slopes of the interior are all wooded, and in no portion of the province is the supply of timber insufficient for local demands. The lumber trade, however, has not of recent years shown great vitality, a consequence of depression in foreign markets and speculative shipments. Values of exports have fluctuated very much, as appears from the following figures:

Year	Value of Exports
1884	$458,565
1886	194,448
1888	441,765
1891	394,996
1892	425,278
1893	454,851

Exports for 1884 were of greater value than has been the case in succeeding years. In 1894, 67,500,000 feet of timber were cut, and 65,000,000 feet in the preceding year. The revenue derived from that source by the Government was $59,500. The chief seat of the industry always has been, and always is likely to be, in the coast and island districts—in which are situated the majority of the saw-mills—both on account of the growth of timber and the facilities for collecting logs and making shipments.

The chief trees are conifers, besides oaks, maples, poplars and alders. About 85 per cent. of the lumber is obtained from

the Douglas fir, which makes excellent building material. Its density of growth is remarkable. The best specimens of the tree average 160 feet clear to the first limb, and are from five to six feet in diameter at the butt. Exceeding this in size and girth is the cedar, which is in much request for fine dressed woodwork, doors, frames, sashes, etc. The manufacture of shingles from this tree is probably the industry connected with lumbering which has developed most of recent years.

FISH.—While it was as a gold-yielding country that British Columbia first attained prominence, it is to a large extent to its fisheries that it owes world-wide advertisement, since the products of its waters, whether tinned, dried or frozen, have found their way into all quarters of the globe. Probably its fisheries are the richest in the world, and the peculiarly sheltered nature of its coast must be recognized as serving to greatly minimize the danger of a usually precarious calling. The fish caught include salmon, halibut, cod, herring, oolachans (peculiar to the northern coast), and others.

Salmon canning as an industry has now assumed extensive proportions, and rests on a secure and profitable basis. Each year, with unfailing regularity, shoals of the fish visit the inlets and rivers of the coast in such numbers that, by those unacquainted with facts, statements on the subject are often received with incredulity. In the case of the Fraser river an abnormally large "run" takes place every fourth year. It is on this river that the majority of the canneries are situated and on it that operations were commenced in 1876, when two canneries "put up" a pack of 9,847 cases. Next year the number of canneries had doubled, and the pack increased to 67,387 cases. For the fifteen years ending with 1890 the total pack was 2,572,000 cases. Since then figures have been :

Year	No. of Cases
1891	315,177
1892	228,470
1893	590,229
1894	494,369

One of the phenomenal runs took place in 1893, and the pack for that year is the largest on record, being valued at $3,150,609, the average value for the ten previous years being

$1,578,417. In 1894, 51 canneries were in operation, of which 30 were on the Fraser, while four more are in course of construction for the season of 1895. As the trade is almost entirely an export one, the profit of the industry to the province is apparent.

With the exception of halibut no fish has yet been caught for other than the home market. During the winter of 1894-95, however, several companies were incorporated with the object of supplying the eastern markets with this fish, at a time when it could not be obtained on the Atlantic coast, and the very success attending such enterprises has proved likely to defeat itself. Halibut were caught in such abundance that the supply exceeded the demand, and one company, at least, closed the season in financial difficulties. On one trip a vessel obtained 120,000 lbs., and in six trips 520,000 lbs.—evidences of the richness of the fisheries. Increasing attention has been paid of late to facilities for freezing, drying and canning different varieties of fish, and it is not improbable that in the near future still more attention will be given to the development of this valuable resource.

SEALING.—Partly to be classified with fisheries and partly with the fur trade is the sealing industry—one of considerable importance to the province. Begun in 1878, it has made gradual but steady progress since that date, although, with the low price of skins at present ruling, it is not likely to be capable of much greater extension. According to the latest obtainable figures—for 1893—the number of vessels engaged was 55, and the value of the catch was $874,842, an increase of $241,723 over that of 1892.

FURS.—The fur trade of the province has now been entirely dwarfed by younger rivals, and has ceased to command attention from any but those immediately concerned in it. Furbearing animals have not noticeably decreased in number, but the demand for their skins, being governed largely by the caprice of fashion, is only sufficient to induce settlers and Indians to look to their capture as an added means of obtaining a livelihood.

AGRICULTURE.—It is difficult to make any general state-

ments as to the agricultural development which British Columbia has undergone, but it is not amiss to say that it has scarcely yet passed the stage of crudity. Uninviting, for the most part, as the country is in surface appearance, there are yet many rich fertile valleys, capable of much cultivation, and the interior tableland has proved of the utmost value both for agriculture and stock raising. Possibilities have suffered from an extensive rather than an intensive system of farming in vogue, by which a settler holds far more land than he can possibly bring under cultivation, and also from speculation in land values. Roads, too, are so few and far between that disposal of produce is very difficult for many of the "ranchers."

Climate, of course, has everything to do with steady progress in this direction, and compared with eastern provinces, British Columbia has been specially favored. On the coast the atmosphere is moist, with mild winters and pleasant summers; in the interior dry, warm enough to ripen the grape in summer, and seldom excessively cold in winter, with a heavy snowfall on the mountains. The coast districts are characterized by dense and rapid growth of vegetation, and clearing has always to be resorted to; but the valley of the Fraser river, together with much of Vancouver Island, is being gradually brought into a state of cultivation. The delta lands at the mouth of that river are the most valuable in the province on account of their productiveness and proximity to markets. Irrigation, again, would benefit the interior dry belt in some districts, though a great part of it is noted for successful production of wheat, fruit and vegetables. What is known as the Okanagan District has proved specially fertile, and well adapted for settlers.

How far short the province comes of meeting its own requirements in agricultural produce may be gathered from the fact that the value of its imports for the year ending 30th June, 1893, was $2,483,390, and $2,659,698 for the same period ending 30th June, 1892; and also from the quantities of butter, flour and hay imported, which were as follows:

Year	Butter	Flour	Hay
1892........	1,677,970 lbs.	76,432 lbs.	827 tons
1893........	2,065,435 "	90,506 "	1,399 "

It is likely that statistics for 1894—not yet complete—will

show considerable increase in imports on account of the floods in the Fraser valley, which in that district did much damage, and left many settlers impoverished. There is no good and sufficient reason, however, why the large amount of money annually remitted for foodstuffs should not be retained in the province, why the farm produce of the coast and islands should not replace that of eastern Canada in the home markets, and the fruit of the interior the products of California. More careful cultivation of smaller holdings, with better and cheaper means of communication than already exist, will inevitably bring about this result.

POPULATION.—Vital statistics must bear striking witness to a country's progress. A steady increase of population is always regarded as a sign of its advance, and in this regard the statistics of British Columbia are particularly significant. According to the Dominion census the population in 1871 was 36,247, in 1881, 49,459, increasing to 98,173 in 1891, or at the rate of 98.49%. Making allowance for Chinese and Indians, the whites number about 65,000, and they have constituted the larger proportion of the latest increase. Of these about 50,000 are congregated in the cities, and the remaining 15,000, consisting of ranchers, lumbermen, miners and fishermen, are scattered over the rest of the province—the population of an average sized English town to a territory three times the size of the British Isles.

FINANCES.—Naturally the public debt of British Columbia has grown with its development. At Confederation the Dominion assumed a debt of $2,029,392. The balance sheet of the province for the fiscal year ending 30th June, 1894, shows total liabilities amounting to $3,904,807.24, a sum which exceeds the total assets—including the Government debt allowance of $583,021—by $2,398,767.72. The net revenue for the same period was $821,660.55, and the net expenditure $1,514,405.10. To make good deficiencies a further loan of $2,000,000 has been approved by the Provincial Government. While this method of financing is open to honest criticism, the fact remains that capital, wisely administered, is British Columbia's greatest need, and the province has hitherto had the satisfaction of seeing its bonds command a good price.

It is impossible to summarize British Columbia by comparison with any other province of the Dominion. In physical features and combination of resources it is unique. Other provinces may surpass it in the possession of one great resource, but there is not one which can enumerate so many of equal importance. As has already been stated, development has, so far, been carried on in the face of difficulties, and is, practically, only beginning. Nothing as yet can be said to have suffered decline —with the exception, perhaps, of gold production, and there is every reason to believe that that merely marks the stage of transition from the simple methods of individual miners to the more systematic ones of organized capital. Probably the mining of silver will prove an industry of a more lasting and beneficial character than that of gold ; since within a decade it has served to open up a district previously looked upon as rugged and unproductive. Everything considered, it may safely be concluded that the province is on the threshold of a period of rapid and thorough development of its mineral resources. Its immense reserve of timber is only awaiting the demands of trade to become an increasing source of wealth. The importance of its fisheries is emphasized by the careful regulations framed by the Dominion to protect and improve them ; and agriculture cannot long lag behind when the difficulties incident to the settlement of a new country are overcome, and its requirements are better understood. The advantages of position must not be forgotten, representing, as British Columbia does, the outlet on the Pacific Coast for the whole Dominion to the eastward, and possessing direct and regular communication with the Orient and Antipodes. The probable completion of the Nicaragua Canal, also, will bring its coast nearer the shores of the Old World, and as facilities for transport by sea and land increase, there is every reason to expect a more than corresponding development of the rich resources of British Columbia.

F. M. BLACK

NOTES AND MEMORANDA

WE are pleased to be able to furnish our readers in this number with an article dealing very fully with the condition of affairs in Newfoundland, by a gentleman who, we are strongly assured, is thoroughly well informed on the whole subject.

In Canada very little has been known of Newfoundland at any time, and the highly colored accounts which have reached us at intervals since the crisis, through the columns of the newspapers, have created an entirely erroneous impression in the minds of the public here as to the real situation, and have done great injustice to the credit of the colony. Dr. Harvey's article is therefore timely, particularly as it indicates that the outlook is under the circumstances in every way encouraging. We are directly as well as indirectly interested in the welfare of the colony, and the possibility of a renewal of negotiations for its admission to the Confederation will no doubt give to the article an added interest.

The utterly untrustworthy character of the information respecting Newfoundland which has been furnished through the press, is deserving of comment, and it will serve a useful purpose to quote some spirited remarks on the subject contained in Dr. Harvey's letter to the Editing Committee enclosing his MSS:

"The story about there being 5,000 persons employed in the Civil Service, is an entire fabrication. The number employed is not greater than the average of such services in other countries.

"The messages sent from here to the United Press and other news agencies, are frequently gross exaggerations or downright fabrications. They are sent for sensational purposes or for political ends, and should be received with great caution. Witness the story lately circulated on this authority by the whole Press of the United States and Canada to the effect that a discovery was made here of a syndicate for insuring vessels and scuttling them to obtain the insurance, in which many of our

leading business men were said to be implicated. There was not the shadow of a foundation for such a tale. This is only one of a score of similar stories. It is not creditable to the Press that it should continue to receive and circulate such untruths."

It now appears to be improbable that the proposed International Monetary Conference, referred to in a recent issue of the JOURNAL, will be held. Two elements have arisen to check the progress of the agitation for bimetallism. These are, the marked rise in the prices of commodities in the past few months, and the developments in the gold mining industry which have given rise to so much serious speculation as to the possibility of a "coming flood of gold." In the face of a production last year the largest known, people will not be found so ready to attach credence to the claim that there exists a scarcity of that metal for monetary purposes, although it must be said that the bare fact of an increased production is not necessarily evidence against a scarcity any more than a production somewhat below the average was before this year proof the other way. And viewed from another aspect, it is, for the time being at any rate, useless to continue urging an appreciation in the value of gold in view of the recent upward movement in prices. It follows that if, as there is reason to hope, we are on the eve of a period of reasonable prosperity, the silver problem is not likely to give us cause for anxiety for a considerable time to come.

It is at any rate reassuring to learn that "sound money" is a plank in both party platforms in the United States. As to Great Britain, the situation there is indicated in the following quotation from a letter written by Mr. Balfour to a correspondent who questioned him as to the accuracy of the published reports of some utterances of his made shortly after the accession of his party to power. This document, coming from the pen of one of the foremost champions of bimetallism, affords a very clear view indeed of the position of the cause in Great Britain :

"I know not why persons interested in the subject should be, as you say they are, 'perplexed at my supposed change of attitude towards the question of international bimetallism,' for no such change of attitude has taken place. The terms of my answer in the House of Commons, which has given rise to so much unnecessary discussion, explicitly stated opinions which I have long

held and which I thought that all bimetallists held also. The answer was textually as follows, except that I have numbered the propositions it contains for convenience of reference :—

" '(1) I am, as I have always been, strongly in favour of international agreement, but (2) I have no right to pledge my colleagues on the subject, nor (3) have I any grounds for thinking that such an agreement would at the present moment be the result of an international conference. (4) A second abortive conference would be a serious misfortune.'

" Number 1 is a mere re-enumeration of my belief in the advantages of an international agreement ; 2 is a statement which I have constantly made before in public ; 4 appears to be self-evident. It is only as regards the subject dealt with in 3 that any difference of opinion may possibly be found among bimetallists. In my judgment, however, there is but little prospect of a conference succeeding unless the Governments who are to be represented at it come to some kind of understanding on the main points at issue before the conference assembles. No such understanding unfortunately at present exists, and until it does exist a conference would probably do more harm than good."

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THE English Board of Trade is making a strong effort to have the Acts relating to joint-stock companies with limited liability consolidated and made to include provisions calculated to prevent many abuses which the provisions of the existing Acts have permitted. A Departmental Committee, appointed in November, 1894, to enquire what amendments were necessary, after taking the evidence of various persons and associations, presented its report in August last, accompanied by a draft bill. In the appendices of the report is embodied the judgment in the case of *Broderip v. Salomons*, which was recently published in the JOURNAL ; and the influence of the disclosures made and the views expressed by the court in that case, is reflected in the text of the draft bill.

It is a requirement of the bill that in the prospectus of any company shall be published the fullest particulars of any purchase of property to be made by the company, the terms of the purchase including a statement of any payment to be made for good will, etc. ; the prospectus must also state the amount, if any, intended to be paid to any promoter or agent, and the consideration for which it is to be paid, as well as mention of the dates, parties, and a short purport of every material fact known to any director or promoter of the company.

As a further safeguard of the interests of subscribers to stock, the bill provides that a meeting of the shareholders must be called within one month of the filing of the statutory declar-

ation necessary as a condition of commencing business, and that seven days before the holding of such meeting a report must be sent to every shareholder, showing: the allotment of shares, to what extent and how paid up; the amount of receipts and payments up to the date of the report; the nature of any contract made with the promoter of, or vendor to, the company, not disclosed in the prospectus; the position and prospects of the company, etc. The shareholders being placed in possession of this information would be enabled to move for the winding up of the company, if they found that the promoters had not kept faith with them.

With regard to mortgages and special liens upon the assets of the company, the bill provides that where these are not registered within twenty-one days of their execution, they shall be void as against creditors.

It is much to be hoped that a bill giving effect to the substance of the recommendations of this committee will receive the sanction of the law. Doubtless some legislation will shortly be introduced in the British Parliament, when there may be occasion for further comment.

THE annual reports issued in the last few months by the Australian banks seem to show that the mess into which the affairs of some of them had been got at the time of the crisis, was not less serious than at this distance it was judged to be. The cloud of depression following the crisis is lifting only by slow degrees, and the realizations from lock-ups in real property have in consequence been altogether disappointing. The contrast with the United States in respect to the progress in recovery is very marked, but the reason clearly lies in the fact that the violation of economic laws in the Australian boom was even greater than was the case in the United States. There perhaps has never been a financial collapse so directly and entirely attributable to the pursuit of an unwise policy by a country's banking institutions, and how very bad the banking was in all but at most three instances, is only apparent now that the results of the first year of operation under the reconstructions are seen. This is strikingly illustrated in the case of

a bank whose scheme of reconstruction involved the conversion of £2,112,000 of deposits into preferred stock. The report of this institution to 30th June last shows that the earnings for the year had been sufficient to defray the expenses of management, and after providing for losses, leave a balance to carry forward of £5,000! Which simply means that the earnings fell about £100,000 short of the sum required to enable the bank to pay the stipulated interest on £2,112,000 of moneys which were lodged with them as deposits, and afterwards—without the depositors having a choice in the matter—converted into preference stock,—to say nothing of a dividend to the original shareholders. In this instance at least—and the bank alluded to is one of the largest—the sacrifice which the depositors are having to bear is unfortunately greater than they might have looked for from the views of the situation expressed by the management of the banks concerned at the time of the reconstructions.

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IN New Zealand the financial situation from the banking standpoint is even worse than in the Australian colonies. The troubles of the Bank of New Zealand, by far the most important of the New Zealand banks, commenced some years before the Australian crisis. From its experiences, indeed, a lesson might have been learned by the Australian banks which would have mitigated the disaster there, but "the disclosed troubles of the Bank of New Zealand from 1887 to 1890 had no apparent effect on the conduct of business by the Australian banks, which, like the Pharisee, thanked God that they were not as the Bank of New Zealand, and continued to work on the same fatal lines." *

Two of the three New Zealand banks, viz., the Bank of New Zealand and the National Bank of New Zealand, had to be "reconstructed" some time before the Australian crisis, the Colonial Bank, however, coming through the different crises without disaster. But the mismanagement of the first named bank has resulted in an appalling destruction of capital, and has

* SIDNEY J. MURRAY in the *Bankers' Magazine* (London), November, 1895.

had far-reaching consequences. The cause of the troubles, as in Australia, was lock-ups in landed property and other fixed assets.

In 1888 it was found necessary to write £300,000 off the bank's capital of £1,000,000, and to issue £500,000 of additional stock. In 1889-90 the assets of three land and agricultural companies with which the bank was heavily involved were transferred to the Bank of New Zealand Estates Company, and a further sum of £300,000 was written off the capital, reducing it to £900,000. The quality of these assets is disclosed by the developments of the past year or two. In 1894 the Government had to step in and guarantee £2,000,000 of new stock to the bank, the subscribers to which—and subscribers appear to have been readily found—were told that £1,000,000 of the new capital would be employed in the ordinary business of the bank, and the other £1,000,000 invested in securities to be approved by the Colonial Treasurer. Little more than a year has passed, and it is announced that, in order to avert a national catastrophe, the Government must take over the bank, writing off the entire capital of £2,900,000! If we were sufficiently credulous we ought to infer that the bank has in the course of one year's business lost this prodigious sum, but no other conclusion is possible than that the major portion had been lost when the issue of £2,000,000 of stock was offered to the public. In just what position the Government is placed towards the unfortunate subscribers to this last issue of stock is a matter on which an opinion cannot properly be formed without the full facts, but a great scandal lurks somewhere.

It is said to be a certainty that the Colonial Bank will be absorbed by this government institution, and to be a probability that the National Bank of New Zealand will also be merged in it, thus creating one State bank, competed with only by the branches of the Australian banks, whose competition, it is hinted, will be regulated if necessary by taxation.

The spectacle of a State bank, the creature of political parties, in a country where the standard of political honor is not of the highest, affords anything but assurance as to the colony's future welfare.

In the purchase of municipal debentures the necessity for an investigation of the validity of the issue, and—where the transaction is not with the municipality direct—of the genuineness of the bonds, as well as the need for evidence on these points to satisfy a purchaser in case of re-sale, are matters which all dealers in these securities have felt to be very troublesome. The issues of smaller municipalities are not infrequently found to be prepared under improperly framed by-laws, or to be irregular in form, while the bonds themselves are usually cheaply lithographed or printed, so as to render imitation and fraud thereby an easy matter. It has happened thus far that nothing of this kind has been perpetrated in Canada, but frauds by means of bogus bonds have of late years been numerous in the United States, and in some cases for very large sums. Their increasing number has prompted one of the Trust companies in New York to take up as a branch of its business the certification of municipal bond issues. The company offers to investigate through counsel of high standing the regularity of issues, and to stamp the bonds, before their sale by the municipality, with their guarantee that the bonds are regularly issued, and a valid obligation of the municipality. It is part of the scheme also to provide for the registration of the bonds in New York, and for the payment of the interest at the office of the Trust company.

It is to be hoped that this method of dealing with municipal bonds will before long become general. That it would materially enhance the value of such securities—at any rate of the issues of more or less obscure but prosperous communities—there can scarcely be a doubt.

REVIEWS

The Editing Committee desire it to be understood that the "Reviews" appearing from time to time, even where not over a signature, are contributed, and are not in the nature of Editorial opinion.

History of Monetary Systems: ALEXANDER DEL MAR, M.E.; Effingham Wilson, Royal Exchange, London.

MR. DEL MAR'S book fills a gap in the literature of monetary science. Unlike many of his predecessors, he treats of the history of moneys from a practical as well as from a scientific standpoint; and though one may not entirely agree with his conclusions, one is forced to admit that the historic groundwork upon which they rest is so solid as to merit for them the most careful attention.

The book forms an argument for no particular theory; the only thing the author seems to feel strongly upon is the subject of private Coinage, and this he denounces in unmeasured terms. But the main object of the book is to give the reader an intelligent account of how money came to be what it is, and how the different ideas connected with it have been evolved. Mr. Del Mar treats his subject with the master hand of one who is thoroughly acquainted with its every detail.

The author traces the evolution of money as it is to-day through six distinct steps. The first and most primitive form of exchange was, of course, barter, when one or more articles of one kind were traded for one or more articles of a different description. But the necessity for a common measure of value soon becomes apparent, even in primitive communities, and hence the use of a certain divisible commodity, such as beans, to act as a medium of exchange. But beans and the like can be used for a variety of purposes; they may be eaten or sown, so their place is taken by metallic pellets. It is soon discovered, however, that the arrival, or departure, of a few loads of pellets makes enormous fluctuations in the market, and so the emission of these pellets becomes localized, and the law of the state

forbids the use of any but a certain kind. The pellets then become coins. The idea which the author ascribes to Lycurgus, of Sparta, that the function of money is to measure value, is the next step, and the issue of coin is limited to a certain publicly known number of counters, having no value as pieces of metal, but great value as a public measure, and then "money becomes a public institution owned and controlled by the state." In order to invest this state money with the necessary dignity and prestige, the sacerdotal authority is thrown around it, and the counterfeiting of the state money is regarded as sacrilege. But the want of a fixed relation between the metals causes great disturbances, and frequent re-coinages have to be made, so that finally moneys of account are created by law, called in Rome libras, sicilici and denarii (analogous to the English £ s. and d.), to which an arithmetical scale of proportions might be applied, and money becomes an institution of law.

The moneys of the ancient states of the East first engage the author's attention, and he treats at some length of the coined money of India, the superior antiquity of which is beyond dispute, and of the monetary system of Persia under her native rulers, and before Alexander of Macedon swept everything before him in his crusade against that unfortunate country.

Regarding the money of Persia, it is interesting to note that under her native rulers Persia had a monetary system almost identical with that of England at the present day. Mr. Del Mar deals at some length with the superstition that the Greeks were the first inventors of money, an idea based largely on certain passages in Herodotus. The author deals with these passages in such a way as would, without doubt, make that worthy old gentleman turn in his grave. An interesting account is given of the moneys of Rome, of the Moslems, of the early English and of the Arabians, the greatest metallurgists of early times, of the moneys of the Heptarchy, Anglo-Norman, early and later Plantagenet periods, and of the systems of Scandinavia, the Netherlands, Germany and the Argentine Confederation, an account interesting, wonderful to say, to others than antiquarians.

But the chapters of especial interest to the student of money, are those on the Sacred Character of Gold, on £ s. & d., on the Growth of the Coinage Prerogative and on Private Coinage.

For more than thirteen centuries, the right to coin gold money pertained exclusively to the Sovereign Pontiff of Rome, and the coinage of gold by any other authority was regarded as sacrilege. The true reason for this did not relate to production or plentifulness of gold, but to the hierarchical constitution of Pagan Rome, "which afterwards, with modifications, became the constitution of Christian Rome." That the mining and coinage of gold was a prerogative attached to the office of Sovereign Pontiff, was an article of the Roman constitution and of the Roman religion. The Roman Senate prohibited its exportation, and the taxes of the Byzantian empire were payable only in gold. An instance is even cited where one zealous emperor actually proclaimed war upon an unfortunate prince for presuming to pay his tribute in other than the gold coin required. This, then, was the marked distinction between the coinage of gold and that of silver. The former was exercised by the Imperial Treasury alone, which was organized as a sacred institution, and whose chief officer was invested with a sacred title, and its exercise was guarded as a sacred prerogative. The coinage of silver, on the other hand, was a secular prerogative, exercised by the Emperor as a secular monarch, and thrown open to subsidiary princes, nobles and cities of the empire. Long years afterwards, when Henry III of England received into his own hands the gold of which he had plundered the Jews, but consented to receive the silver by the hands of others, he was but carrying out the idea embodied in this sacred myth, whose influence has not even to this day entirely departed, for myths die hard.

The adoption of the system of pounds, shillings and pence the author traces to the Romans of the fourth century, when the three metals were coined together, and it was found necessary to give to the different coins some fixed relation to each other. During the fifth century the system spread through the entire Roman Empire, and prevailed wherever that empire had taken a firm hold. The fable that the system owes its origin to Charlemagne, the author treats with as little respect as he does that as to the Greeks being the inventors of money.

The evolution of the coinage prerogative in England and elsewhere, was the result of the breaking up of the Holy Roman

Empire after the great Interregnum of the thirteenth century. Up to this time the coinage of gold had been sacred to the Sovereign Pontiff of Rome, and was exercised by the Popes as his successors. But the split in the Roman Church which followed the Interregnum, when there was one Pope at Avignon and another at Rome, each claiming the spiritual allegiance of Christendom, ended forever the temporal sway of the Popes, and Edward III of England, with other sovereigns of Europe, began to issue their own gold coins. Money then became whatever the state declared to be money.

The introduction of private coinage, and its successor, the private issue of circulating notes by chartered banks, Mr. Del Mar traces to the rapacious followers of Mahomet, an ancestry the institution certainly has no cause to boast of. The Portuguese traders established private mints in India, and their Dutch, and subsequently English, conquerors, continued the policy. Charles II, of England, when pressed for money by his mistresses and parasites, one day bargained away the prerogative of coinage to the goldsmiths, of London, as he had bargained away so many of the liberties of his subjects. Thus was introduced into England and her colonies what Mr. Del Mar calls "that last of degradations, private coinage." The goldsmith class, which includes the managers of banks of issue, are, in the opinion of the author, less competent to understand and regulate the measure of value than are the representatives of the people! "The contention henceforth," he concludes, "may be not whether the symbols of money shall be made of one metal or two metals, but that the state, and not the money-changers, shall control its issues."

S. B. Woods

The Industrial Services of the Railways : Emory R. Johnson, in the *Annals of the American Academy of Political and Social Science.*

In the above we are afforded in moderately full outline the results of a thoughtful study of the question of the part the railroads have played in the revolution which during the present century has taken place in the organization of industry.

In order to best show the influence exerted by the railroads, Mr. Johnson first sets forth the essential characteristics of the economic changes which actually took place.

"The industrial revolution began in England about 1770, "and commenced a generation and a half later in the United "States. Its characteristics in each country were very similar "and it had three pretty distinct phases." The first change that took place was the substitution of machinery for hand labor, necessitating the transfer of the laborers from their homes to the factories in which their work could be concentrated and supervised. The power first used in running machinery being water, it was a natural consequence that the larger proportion of the factories were situated beside the streams of water. The use of steam power later brought about the erection of factories near the beds which supplied the coal for the engines, or, in the cases of manufacturers of some kinds of goods, near the sources of the raw material. With this change came the transfer of industry, and to a certain extent of population, from the South and East of England to the North and West. In the state of Pennsylvania the iron manufacture was located first with reference to the supply of wood for fuel, then with respect to the location of the anthracite coal, and lastly to the location of bituminous coal from which the coke for the blast furnaces is made. Pittsburg owes its position as the greatest iron city in the United States to its proximity to the supply of bituminous coal and fuel oil, the ore of States as far distant as Wisconsin and Minnesota being taken there to be smelted, showing that proximity to the sources of fuel supply is regarded by manufacturers as a more important consideration than the question of the location of raw materials. The last and most recent phase of the industrial revolution, Mr. Johnson notes, has brought the industries to the cities, and manufacturing plants are now being established in the great centres of population because of the advantages to be derived from the condition of the labor supply and the greater facilities for marketing and distributing products. And this phase is attributable to the development of the railroad system, which has rendered the location of the fuel supply and the raw materials matters of secondary importance. Evidence of the greater advantages of facilities for transportation is found in the

fact that Philadelphia, the greatest manufacturing city in the United States, is situated on tide water instead of in the coal mining district of Pennsylvania. New York is also becoming an important manufacturing point. But the most notable instance bearing on the question is that of Chicago, where the development of manufacturing in the last few years has been very rapid. This is because the railways are able to carry the coal and other bulky materials so cheaply that the manufacturer finds it to his advantage to establish his factory where the best facilities are to be had for shipping and marketing his products. These conditions mostly exist at some point having an outlet by water, but, as instanced in the cases of Indianapolis and Atlanta, interior cities favored only by excellent railway facilities may become of great industrial importance.

Having considered the part played by the railroads in this great industrial revolution, Mr. Johnson proceeds to analyse the economic services performed by the railroads at present in order to discover how this method of transportation modifies and assists present industrial processes.

By bringing about the localization of industry the railroads have contributed largely to the lessening of expense in getting goods ready to distribute, it being no exaggeration, Mr. Johnson maintains, to say that they have done more than anything else to reduce the cost of the making of things. The important service they have rendered in this way is certainly not generally realized.

The value of their services, however, is of course most apparent in the matter of distribution. In this, its special function, it has accomplished two things:

(1) It has cheapened the expense of former services. How much is saved to industry by cheapening of transportation rates it is difficult to measure; computations show that it would have cost the people of the United States eleven times as much to do the freight work done by the railroads during the year ending June, 1893, but inasmuch as various conditions in our present business organization owe their existence to the extension of the railroad system and could not be met by any method of transportation inferior to the railroad, little can be deduced from such a comparison. The decline in the freight

rate per ton mile received by the railroads of the United States from 2½ cents in 1869 to .878 cents in 1893, indicates the degree to which the expenses of production have been influenced by the railroads.

(2) The use of the railroad as a carrier has effected a saving in the expenses of production owing to the fact that this agent can perform services which would not be obtainable from other means of transportation. Quick transit for perishable goods, cheap rates for bulky raw materials, regularity and frequency of service, have combined to increase greatly the variety and volume of the commodities which circulate through the channels of trade, and this is the chief reason why a decline in the carrying rates stimulates and advances industry.

In addition to lessening the expenses of production and distribution, and consequently effecting a lowering of prices, the railways have brought about a comparative uniformity of prices throughout the world. They complete a most perfect mechanism for collecting and distributing products, and the maintenance of practically the same relation of supply to demand in all markets follows naturally.

Finally, Mr. Johnson urges that the railroads have exercised an influence on prices through assisting to make them more stable from year to year. The facilities for distributing from the centres of commerce account for the extent of the stores of food which are garnered into great warehouses and drawn upon from different parts of the world as needs arise. The existence of these stores prevents those oscillations of price between the seasons of harvest which are experienced in the case of products of the soil which, from their nature, can have only a local market, and of which consequently no large stocks are kept.

It is maintained then that the development of the railroads has lowered prices and made them more uniform and stable.

Having made this interesting analysis of the influence of the railroads for good, Mr. Johnson goes on to show the other side of the picture, and discusses the question of the extent to which railways have wielded their power so as to work injury to the business interests of individuals, of cities and of sections of the country, by discriminations to the more power-

ful shippers, etc., the case of the Standard Oil Company being dealt with at length. A great deal has been written, however, on this aspect of the subject, and we need not follow Mr. Johnson here, but we note his conclusions under this head:

"The conviction is at last growing that adherence to competition has not resulted satisfactorily. . . The problem in transportation which the railways and the public alike are anxious to see satisfactorily and finally solved, is the problem of eliminating discriminations so completely that freight classifications and charges shall be so arranged that every shipper and every locality shall be justly treated at all times. . . . The economic advancement of the country does not demand a general lowering of rates, but greater equality and stability of charges."

*Gresham's Law.** HENRY DUNNING MACLEOD.

IN an admirably concise statement of the principles of monetary science upon which monometallists rest their case, Mr. MacLeod gives an interesting account of the circumstances under which what is known as Gresham's law of the currency, was first enunciated. Subjoined are the paragraphs of the pamphlet dealing with this portion of the subject; they contain a good deal of information which has not been widely published:

"Charlemagne established the system of coinage which was adopted throughout Western Europe. He made the pound weight of silver the standard, and coined it into 240 pennies. For some centuries these were the only coins issued by the Sovereigns of France, and for a considerable time they coined these pennies at their full weight and fineness. But about the beginning of the twelfth century they began not only to diminish their weight, but to debase their purity. They considered it part of their inalienable divine right to declare that their subjects should accept the diminished and debased coin at the same value as the good coins of full weight. They further complicated matters by issuing gold coins, and they considered it as part of their divine right to change the rating of the coins with respect to each other as often as they pleased. These constant tamperings with the coin produced commotions and disturbances for centuries and drove away foreign trade from the country. At length that great sovereign, Charles V, surnamed the Wise, perceived that the only way to restore prosperity to the country was to reform the coinage. He referred the matter to one of his wisest and most trusted counsellors, Nicholas Oresme, afterwards Count Bishop of Lisieux, who, in answer to the appeal of his Sovereign, drew up in 1366, his now famous *Traictie de la première invention des Monnoies* in twenty-six chapters, which has only recently been brought to the notice of economists. After

* Pamphlet No. 9 of the Gold Standard Defence Association.

explaining the true nature and uses of money, he laid down the following principles:

a. That the Sovereign has no right to diminish the weight, debase the purity, or change the denomination of the coin. To do so is robbery.

b. That the Sovereign or the law can in no case fix the value, *i.e.*, the purchasing power of the coins. If he could do so, he could fix the value of all commodities.

c. That the legal ratio of the coins must strictly conform to the relative market value of the metals.

d. That if the fixed legal ratio of the coins differs from the natural, or market value of the metals, the coin which is underrated disappears entirely from circulation, and the coin which is overrated alone remains current.

e. That if degraded and debased coin is allowed to circulate along with good and full-weighted coin, all the good coin disappears from circulation, and the base coin alone remains current, to the ruin of commerce.

"This great treatise, which may justly be said to stand at the head of modern economic literature, laid the foundations of monetary science. As it was written long before the days of printing, it never got into public circulation. It is merely a report addressed to Charles V. The same evils existed all through Europe, and were called *morbus numericus*.

"Poland, which then comprehended the modern Prussia, was, among other countries, afflicted with these evils. Sigismund I, King of Poland, who was fully sensible of the injury they inflicted upon the country, sought the advice of Copernicus, who was a member of the Prussian Diet. At the instance of Sigismund, Copernicus in 1526 drew up a masterly treatise on money, which he entitled *Ratio monetæ cudendæ*, which has only been discovered within the present century, and is included in the magnificent edition of his works printed at Warsaw in 1854. Copernicus had no knowledge of the treatise of Oresme, written 160 years before his time, but he came to exactly the same conclusions. He said:

(*a*) That the four principal causes of the decadence of States are civil discord, pestilence, the barrenness of the land, and the debasement of the coin.

(*b*) That it is impossible for the prince, or the law, to regulate the value of the coins, or of any other commodities.

(*c*) That all the prince, or the law, can do, is to maintain the coin at a fixed denomination, weight and purity.

(*d*) That it is robbery for the prince to change the denomination, diminish the weight, or debase the purity of the coin.

(*e*) That it is impossible for good full-weighted coin and for degraded and debased coin to circulate together; but that all the good coin is hoarded, or melted down, or exported, and the degraded and debased coin alone remains in circulation.

(*f*) That the coins of gold and silver must bear the same ratio to each

other as the metals in bullion do in the market, and that this ratio must never be changed, except in consequence of a change in the market ratio of the metals.

(*g*) That when good coins are issued from the mint, all the base and degraded coins must be withdrawn from circulation, or else all the good coins will disappear, to the ruin of commerce.

(*h*) That it is impossible to have two measures of value in the same country, just as it is impossible to have two measures of length, or weight or capacity.

"The shameful state of the coinage in England caused so much public distress and gave rise to so many disturbances, that the council of Edward VI saw the necessity of reforming it, and had taken measures for that purpose when the boy-king died. No sooner had Elizabeth acceded to the throne than she turned her attention to complete the reform of the coinage which had been begun by her brother, being moved thereto by the illustrious Gresham, who was the first in this country to point out to her that good and bad coin cannot circulate together, but that the bad coin always drives the good coin out of circulation. The facts were only too familiar by the experience of centuries, but no one in this country had previously discerned the necessary relation between these facts before Gresham. He addressed a letter to the Queen explaining that the debasement of the coinage by Henry VIII was the cause of the disappearance of all the good coin. Thus for the first time in this country he showed that the two facts were necessarily related as cause and effect. In 1858 I suggested that this great fundamental law of the coinage should be known by the name of "Gresham's Law," and this has now been universally accepted. But at that time I was not aware that this great law had been demonstrated by Oresme 192 years, and by Copernicus 32 years previously, as their treatises were not published by my friend M. Wolowski for general circulation till 1864. Nor is there any reason to suppose that Gresham had any knowledge of these treatises, as they were merely memorials drawn up for the information of their respective Sovereigns, and were never published for general circulation. These three illustrious men were, therefore, independent discoverers, and the law ought, therefore, rightfully to be called the Law of Oresme, Copernicus and Gresham."

Stamp Duties on Bills of Exchange all over the World. By ALFRED KOLKENBECK. London: Effingham, Wilson & Co. 1s. net.

THE contents of this little publication are fully described by the title. A useful feature of the book is an index in which the countries where stamp duties are levied are distinguished from those where they are not. The United States and Canada are the chief countries in this latter category, and it is interesting to see that with them are numbered China, Egypt, Iceland, Norway, Persia, Siam, some of the South American States, and

a few dependencies of small importance. Australia, Belgium, Denmark, France, Germany, Great Britain, Russia, Spain, Sweden, Switzerland and other highly civilized communities still adhere to this tax on commerce.

CORRESPONDENCE

To The Editing Committee :

SIR :—I notice that in this Province, American currency, which is taken at a discount of ½ of 1% by the banks, is gradually displacing bank notes and small legals as a circulating medium, and from information gathered from various parts of the island I estimate that it forms fully one-fourth of our circulation.

I presume other portions of the Dominion are affected in the same way, and it seems to me that concerted action should be taken at once by the banks and the Government to exclude from Canada as a circulating medium the currency of a foreign country, before the evil complained of grows worse.

If the circulation of American currency is prohibited to the public by section 60 of the Bank Act, it would appear that we simply need to put into effect our present laws to drive out of the country all forms of circulation except those authorized by Parliament, and I presume the Finance Department would take the matter up if requested to do so by the Bankers' Association.

I would like to see Mr. Lash's opinion whether under sections 51 and 60 of the Bank Act and section 3 of "An Act respecting the Currency" or any other portion of our laws, the use of American currency as a circulating medium could be stopped, and hear his suggestions as to the best means of putting the law into effect.

Yours truly,
J. PITBLADO

CHARLOTTETOWN, P. E. I., 23rd Nov., 1895

[ED. NOTE.—We scarcely think that the circulation of American paper currency can be termed an evil except from the standpoint of the banks, whose profits are affected thereby. The banks in Canada have as a rule acted in the past on the theory that the only way in which to prevent the circulation of American currency is to accept it at par and ship it out of the country, and the information as to the experience in Prince Edward Island afforded by our

correspondent—which we note with much interest—would seem to show that this theory is sound.

Regarding the points raised in the concluding paragraph of the letter, we are indebted to Mr. Lash for the following expression of opinion:

"Section 51 of the Bank Act, which authorizes a bank to issue and re-issue notes intended for circulation, is clearly confined to its own notes. Section 60, which imposes a penalty upon every person except a bank who issues or re-issues any note or other instrument intended to circulate as money, is also confined to notes or other instruments on which the person issuing or re-issuing them is liable. The word "re-issue" in both sections refers to the second or subsequent issue of a note or other instrument previously issued by the same bank or person. Section 64 expressly authorizes a bank to deal in bills of exchange, promissory notes and other negotiable securit ies, and to engage in and carry on such business generally as appertains to the business of banking. American currency notes are promissory notes 'or other negotiable instruments' within the meaning of section 64, and to deal in them would also come within the term of 'such business generally as appertains to the business of banking.' Section 3 of An Act respecting the Currency, being Chapter 30 of the Revised Statutes of Canada, declares that no Dominion note or bank note payable in any other currency than the currency of Canada shall be issued or re-issued by the Government of Canada or by any bank. The words 'issue or re-issue' here have the same meaning as the same words in sections 51 and 60 of the Bank Act, and could not be used to make unlawful the dealing by banks in American currency, which is made lawful by section 64 of the Bank Act."]

QUESTIONS ON POINTS OF PRACTICAL INTEREST

THE Editing Committee are prepared to reply through this column to enquiries of Associates or subscribers from time to time on matters of law or banking practice, under the advice of Counsel where the law is not clearly established.

In order to make this service of additional value, the Committee will reply direct by letter where an opinion is desired promptly, in which case stamp should be enclosed.

The questions received since the last issue of the JOURNAL are appended, together with the answers of the Committee:

Identification of the Payee of a Cheque

QUESTION 17.—A cheque for $100 drawn by John Smith, of Ottawa, payable to his own order, is presented by him at a bank for payment. Although not personally known at the bank, yet the bank know that John Smith, of Ottawa, is worth thous-

ands of dollars. Mr. Smith is informed that the bank will cash his cheque provided he can be identified by some one known at the bank. He returns with Mr. Jones, of Hamilton, a well-known business man, who states that he knows John Smith, of Ottawa, and that he is possessed of considerable means, and then Mr. Jones writes under Mr. Smith's endorsement the words, "Identified by Thos. Jones." The bank cashes the cheque, forwards it to Ottawa, from whence it is returned unpaid, and it turns out that the drawer was not the wealthy John Smith, of Ottawa, and that Mr. Jones was mistaken, there being several John Smiths, of Ottawa. Can the bank, having paid the cheque on Mr. Jones' identification of Mr. Smith, recover from Mr. Jones?

ANSWER.—Under the circumstances mentioned, Mr. Jones was not, we think, liable to the bank in any way, unless his act was fraudulent. If he believed the John Smith, whom he introduced to be the wealthy Ottawa man of that name, and in good faith made that representation to the bank, thereby inducing the bank to cash the cheque, he would clearly not be liable. The point is very fully discussed in *Derry v. Peek* before the House of Lords,* where these propositions are stated by Lord Herschell: First, in order to sustain an action in such a case there must be proof of fraud and nothing short of that will suffice. Second, fraud is proved when it is shown that a false representation has been made, (1) knowingly, or (2) without belief in its truth, or (3) recklessly, careless whether it be true or false.

Irregular Endorsement on a Marked Cheque

QUESTION 18.—A sight draft on one of our customers, accepted by him payable at our office, is presented when due and marked good. When it comes in from the bank holding it next morning, we find that it is payable to "M—— Hotel Co'y," and endorsed (presumably on behalf of the hotel company) "J. S——", but without anything to show that the signature is so intended. (1) Have we a right to send back the item as being improperly endorsed? (2) If so, what is the position of the bank holding it? They cannot protest, as the bill is a day overdue. The bill had passed through the hands of another bank before coming into their hands. (3) Should we take any notice of the instructions of our customer not to pay it on such an endorsement?

ANSWER.—(1) You have a right to refuse payment of the bill unless properly endorsed, and such an endorsement as you

* THE LAW REPORTS, *Appeal Cases*, Vol. 14, 1889.

describe is not sufficient. (2) The holder to whom you return the bill need not protest it to protect himself. It is not a case where the bill is dishonored for non-payment, but where the acceptor has in effect given the undertaking of his bank that the item will be duly paid, when presented with the proper endorsement. The holder should send it back to the bank from which it was received, and the latter is bound to return the money, if any, which it has received for the item. The rights of the parties are on a line with those discussed in the replies to questions 14 and 15 in our last number. If the bank has received value for the item to which its title is disputed, it must establish the title, or return the money. (3) We do not think your customers have any right to object to your paying the item. If you pay on an endorsement to which they object, their only remedy would be to sue you, and in course of the proceedings establish the fact that you had not paid the money to the proper party. If they did this, the bank to which you paid it would have to reimburse you.

Cheque Presented by Payee, who is a Debtor of the Bank

QUESTION 19.—The payee of a cheque drawn to order endorses it and presents for payment. Can the banker rightfully apply the funds upon an overdue note he holds of payee's ?

What if payee claims that funds for cheque are not his own ?

Would the drawer have any grounds for objecting, or legal remedy against the banker for so treating his cheque.

ANSWER.—In our October number we replied to the first portion of the above question, under the advice of counsel, and undertook to deal with the remaining clause later on. This we now do.

The right of the drawer of a cheque having funds at his credit, is to have the bank pay his cheque on presentation, and should the bank refuse to do so without proper excuse, the drawer would have grounds for action against the bank, and would be entitled to recover substantial damages to be assessed by a jury, without proving actual damage as the result of the refusal to pay the cheque. If what took place between the bank and the payee of the cheque amounted to a refusal of payment, we think the drawer could complain and that the bank would be liable for damages for this refusal. Whether the bank refused or did not refuse to pay the cheque, would be a question of fact to be decided upon on the circumstances.

With reference to the position of the payee as against the drawer of the cheque, the decisions are reasonably clear. *Prima facie* the cheque is not given nor accepted as payment of a debt. It is a mere order on the bank to pay, and if not

honored the debt remains, and the payee can sue the drawer for it. But there is of course nothing to prevent the drawer and the payee agreeing that the cheque should be taken as payment, and if it were so taken the debt would be discharged, and in such a case if the cheque should be dishonored, the payee's remedy is upon the cheque only and not upon the debt. If the bank refused to pay the cheque and if there were no agreement that it was accepted in payment of the debt, then the payee could sue the drawer of the cheque for the debt.

Such a state of facts could be imagined which would amount to payment of the cheque so far as the drawer is concerned, and which would entitle the bank to retain the money and set it off as against the debt owing to it by the payee; for instance, if the teller actually counted out the money and told the payee that it was the money for the cheque, and if the payee assented to this appropriation. But for practical purposes the inference which would no doubt be drawn by a court or jury in nine cases out of ten would be that the payee had not assented to the appropriation and that payment of the cheque had in effect been refused.

Married Women's Separate Estate

QUESTION 20.—Does a married woman who has separate estate render that estate liable when she signs a note with her husband, or has she to sign another paper showing she intended to make her separate estate liable by her signature? (2) Does a married woman's name with that of her husband to a joint note, secure her dower to the bank discounting the note?

ANSWER.—(1) We are advised that no special declaration on the part of a married woman, that she intends to bind her separate estate, is necessary to make her undertaking binding thereon. If she has, as a matter of fact, separate estate at the time she signs a note, then her signature, either with her husband or in any other connection, binds it. (2) The legal questions affecting separate estate of married women and their dower rights in their husband's lands, are among the most intricate and difficult, and upon them judges and lawyers are constantly differing. We find ourselves unable, therefore, to give a satisfactory reply to this query. It would probably be held that an inchoate right to dower in her husband's lands would not be separate estate sufficient to make the promise of a married woman enforcible if she had nothing else. The above refers only to the law in the Province of Ontario.

Limited Liability Companies

QUESTION 21.—(1) Why are limited companies not required to publish a list of shareholders and to afford infor-

mation as to their subscribed and paid-up capital, the directors authorized to sign, etc.? This information is necessary as a basis for granting credit. (2) Are limited companies registered in any public office? *

ANSWER.—We think that most companies incorporated in Canada are bound to make an annual return to one or other department of the Government, covering a list of their shareholders and a statement of their assets and liabilities. There is no doubt, however, that the principle has not been as fully recognized in legislation as it should be. In our opinion all joint-stock companies should be bound to furnish information very much in the same lines as banks have to send to the Finance Department at Ottawa. Our correspondent asks why they are not, to which we presume the only answer is that public opinion has not thus far pressed sufficiently strong for it. As regards signing officers, we do not know any way in which the public can be protected except by taking the ordinary precautions, when they are asked to give credit, of making sure they are dealing with the proper officers of the company.

Banking Hours

QUESTION 22.—Is it optional with a bank to close at 1 o'clock on any other day than Saturday, in lieu of the latter day? Do not the provisions of the Bills of Exchange Act respecting the hours at which bills may be protested impose a duty on the banks as to the hour up to which they must keep open?

ANSWER.—Were it not for the peculiar relationship between a bank and its customers, whereby it undertakes to make payments on their account out of the moneys in its hands on presentation of cheques, it might be said that a bank is free to close its doors at any hour that it may choose, but the fulfilment of this undertaking doubtless requires that a bank should be open at the usual hours unless it give reasonable notice to the contrary. But such notice having been given, we think it is clear that a bank may arrange to close on any day of the week at 1 o'clock, and we know that it is not an uncommon practice in the old country for banks to have their offices in small places open only on a certain day or certain days of the week.

As regards the Bills of Exchange Act, this has no bearing on the matter except so far as the hours fixed for the protesting of notes may be taken as indicating what is recognized to be the

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* Our correspondent makes enquiries on a couple of other points upon which we are not informed.—ED. COMMITTEE.

general practice as to the hours for keeping open. The Act, however, so far as this point is concerned, only refers to the hour before which a note cannot be protested—*i.e.*, 3 o'clock, and that this does not affect banks directly is quite plain. Banks usually close at 3, and although the practice of admitting notaries after 3 is a very general one, we do not think that if the notary found the office locked and protested a bill for non-payment, the bank would be under any responsibility in the matter. The most that could be said is that they had impliedly undertaken to be open till 3 o'clock on certain days of the week to make payments on behalf of their customers.

Liability of Endorsers to Drawee of a Cheque.

Question 23.—With reference to the reply to question 14, as to the right of a bank that has paid a cheque to a party with a defective title, to recover the amount from him, are not the prior endorsers on the cheque under the same liability to the bank? Suppose the cheque had been paid to another bank which afterwards was wound up, could not the bank that paid the cheque look to the endorser from whom the defunct bank had received it?

Answer.—We think this is doubtful. The prior endorsers had nothing to do with getting the money from the bank on which the cheque was drawn, and we do not see how the latter could have any right of action against them. The courts are, however, giving more and more weight to the essential equities between parties, and there is a possibility that they might order the prior endorser in such a case to be made a defendant.

Antedated Acceptance.

Question 24.—Has the drawee of a bill payable at or after sight the right to antedate his acceptance, and if he does so, can the holder treat the bill as dishonored and protest it?

Answer.—We do not think there is any room for doubt on this point. An acceptance is qualified and discharges the prior parties, if it varies the effect of the bill as drawn. An order to pay at sight or at a given number of days after sight, would not, it seems to us, be complied with if the acceptor undertook to pay the amount at some other time, and we think the holder should refuse such an acceptance. If it were proper for a drawee to antedate his acceptance a single day, there is no logical reason why he should not antedate it a month or two months, and in the case of a draft drawn say at 60 days after sight, he might make the acceptance mature immediately—a most decided variation of the terms of the bill.

LEGAL DECISIONS AFFECTING BANKERS

NOTES

Securities Held by Banks for Safe-keeping.—The question of the liability of banks in connection with valuables lodged with them for safe-keeping is discussed in an interesting manner editorially in the *Solicitors' Journal* (London) of 28th September last. A perusal of the article will be found instructive, and we feel warranted in quoting at length :

"The theft of Mrs. Langtry's jewels by means of a forged delivery order presented to the branch of the Union Bank where they had been deposited, has naturally raised a good deal of speculation as to the liability of the bank. The facts of the particular case are not sufficiently known to form any precise opinion on the matter, and any such expression of opinion in these columns would be out of place. But the general question of law is one both of interest and importance.

"The liability of depositaries has been a frequent subject of discussion ever since Lord Holt in *Coggs v. Bernard* overruled *Southcote's case*. In the latter case it was decided that the depositary held the goods at his own risk, and was liable to account for their value to the depositor, although he had lost them by robbery. Hence Lord Coke added to his report the advice that a man taking any goods to keep should take them on special terms, as that he should keep them only as he kept his own goods, or that, if they should happen to be stolen, he should not be answerable for them; otherwise he might be charged to the full extent by his general acceptance. The reason of the rule has been traced to the doctrine that the depositary, like other bailees, being the possessor of the goods, was originally the only person who could sue the thief, and, since the remedy was thus vested in him, he had to answer over to the depositor. But this was a reason which would not bear investigation in later times, and in *Coggs v. Bernard* (*suprà*) Lord Holt delivered his famous judgment distinguishing between the various forms of bailment, and assigning to the bailee in each his proper degree of liability.

"It is unnecessary to mention here the six bailments to which Lord Holt gave separate treatment. Subsequently the matter has been simplified by dividing them into three classes—(1)

bailments for the benefit of the bailor exclusively, of which custody without reward—the ordinary 'deposit'—is an example; (2) bailments for the benefit of the bailee exclusively, of which a borrowing seems to be the only instance; and (3) bailments for the benefit of both the bailor and the bailee, as a hiring, or the custody of goods for reward. In each of these classes of bailment a separate degree of liability was, by Lord Holt's judgment, assigned to the bailee. The matter may be stated either positively, by specifying the degree of diligence which the bailee must use, or, negatively, by specifying the degree of negligence for which he will be held liable. Thus, in deposit, where he reaps no benefit, he is bound to slight diligence, and is liable only for extraordinary or 'gross' neglect; in borrowing, where he reaps all the benefit, he is bound to the strictest diligence, and is liable for even a slight neglect; in custody for reward, where he shares the benefit of the transaction with the bailor, he must use ordinary diligence—the diligence of the average man in the conduct of his own affairs—and is liable for ordinary neglect.

"The scheme is neat and symmetrical; it purports to adjust the strictness of the law with careful nicety to the circumstances of each particular case, and there are indications in the authorities subsequent to *Coggs v. Bernard* of attempts to apply it in practice. On the other hand, the distinction between the three degrees of negligence has been found to be no easy matter, and doubt has been thrown upon it. This doubt was emphatically expressed by Rolph, B., in *Wilson v. Brett*, when he said that he could see no difference between negligence and gross negligence. It was the same thing 'with the addition of a vituperative epithet.' Putting this aside, however, for the moment, we may see how the general principles of liability apply to the case of deposit for safe custody at a bank.

"According to Lord Holt's scheme, the bank, when the deposit is gratuitous, should be bound to exercise only slight diligence, and should not be liable save in the event of loss through extreme carelessness, but this cannot be accepted as a correct statement of the law, at any rate without further explanation. The leading case on the subject is *Giblin v. McMullen*, an appeal to the Privy Council from the Supreme Court of Victoria. The plaintiff and appellant was a customer of the Union Bank of Australia, who were represented by the respondent, one of their officers. From the earliest period of his becoming a customer, the plaintiff had placed in the care of the bank a box, of which he kept the key, containing securities and deeds. Among the securities were certain railway debentures. The bank received no consideration for taking care of the deposits of their customers. The box was kept, together with the boxes of other

customers and the bank's own securities, in a strong-room underground. Access to this room could only be obtained by passing through a compartment partitioned off from the clerks' office. The cashier sat in this compartment during bank hours, and a messenger slept there at night. The strong-room was approached by a wooden door and two iron doors. The cashier always kept the key of the wooden door, and during the day he also had the keys of the iron doors; but at night he had the key of only one of the iron doors, the key of the other being in the charge of another officer of the bank. The customers had access to their boxes during bank hours, but always in the presence of a bank clerk. The plaintiff was in the habit of going to his box from time to time to take the coupons from his debentures, and the coupons were thereupon handed to the cashier for collection. Between two of these visits the cashier stole the debentures and absconded, but the date and manner of the theft could not be ascertained. Previously to his absconding he had possessed a good character.

"At the trial the judge refused to non-suit at the end of the plaintiff's evidence, and, the case being left to the jury, they found a verdict for the plaintiff, assessing the damages at £10,450. Upon appeal it was argued that there was no evidence to support the verdict, and the Supreme Court of Victoria so held and directed a non-suit to be entered. The plaintiff then appealed to the Privy Council. The judgment of this tribunal, which was delivered by Lord Chelmsford, seems to sanction the notion that between ordinary and gross negligence there is no practical distinction. The term 'gross negligence,' it was said, may usefully be retained as descriptive of the negligence for which gratuitous bailees are responsible, but when that negligence came to be defined there was no attempt to distinguish it from ordinary negligence, or negligence without the vituperative addition. 'It is clear,' said Lord Chelmsford, 'according to the authorities, that the bank in this case were not bound to more than ordinary care of the deposit intrusted to them, and that the negligence for which alone they could be made liable would have been the want of that ordinary diligence which men of common prudence generally exercise about their own affairs.' It is, of course, possible to style the want of ordinary diligence 'gross negligence,' but then there is no place left for ordinary negligence, and Lord Holt's system of degrees of negligence breaks down.

"The phrase 'gross negligence' occurs also in the American case of *Foster v. The Essex Bank*, quoted with approval in *Giblin v. McMullen* (*suprà*). There also property deposited with a bank had been stolen by officers of the bank who had previously sustained a fair reputation. The bank, it was said

by the court, was, as a depositary without reward, answerable only for gross negligence or for fraud which would make a bailee of any character answerable, and no such negligence appeared in the case, since the same care was taken of the plaintiff's property as of other deposits and of the property belonging to the bank itself. Perhaps this consideration is not conclusive, but the judgment shows that in the opinion of the court a strong case of negligence must be made against the bank to fix it with liability.

On the other hand, in *Re United Service Co., Johnston's Claim*, where a bank was a depositary for reward, this circumstance was held to distinguish the case from *Giblin v. McMullen*, though as the bank was also found to have been guilty of 'gross neglect,' the distinction was hardly wanted. Certificates of shares deposited with the bank had been placed in a safe under the uncontrolled and unwatched power of the manager, who fraudulently sold them. If this was gross neglect on the part of the bank, the bank would have been liable as a depositary without reward, and still more, of course, as a depositary for reward.

"Upon the whole it may be doubted whether the distinction between the three degrees of negligence does for practical purposes exist. Apparently there is a distinction in liability according as a bailment is gratuitious or for reward, and since even a bailee without reward is bound, according to the judgment of the Privy Council, to exercise the diligence of the average prudent man, it is still a greater degree of diligence that the bailee for reward must exercise. In other words, a bank which takes property on deposit without reward must take such precautions for its security as are ordinarily taken for the security of property under the control of banks; while, if the deposit is for reward, the depositor is entitled to expect additional precautions. The particular case of the delivery out of the property deposited upon a forged order does not seem to have been discussed; but since banks are accustomed to act upon the written orders of their customers, it does not seem that they can be liable—at any rate in the case of a gratuitous deposit—if the signature was properly examined, and if there was nothing to raise doubt as to its genuineness."

In the cases of *Molsons Bank v. Cooper* and *Bridgewater Cheese Factory v. Murphy*, the judgments are of considerable moment to bankers. We understand that both cases are being further appealed, and meantime we refrain from comment. The final judgment in the first mentioned case will be looked for with great interest.

Queen's Bench Division, England

The London and Yorkshire Bank Ltd. vs. White*

Equitable assignment of goods as security for a debt.

This was an interpleader issue, before Lord Russell of Killowen, C.J., to try the title to the proceeds of the sale of certain goods.

The London and Yorkshire Bank permitted an overdraft by the firm of B. Fawcett & Co., the business of which was carried on by Frank Fawcett. The condition of the account becoming unsatisfactory to the Bank, the manager was directed to have the amount of the overdraft reduced or else to obtain security. On 6th or 7th Dec., 1893, the manager interviewed F. Fawcett and the latter agreed to assign to the Bank as security the firm's interest in certain books and goods which had been sent to Messrs. Gibbings & Co. for sale. A document, showing the estimated value of the goods, was sent by Fawcett to the Bank manager, and, at the latter's request, Fawcett prepared a notice to Messrs. Gibbings & Co., which was as follows, and was sent to them by the bank:

"To Messrs. Gibbings and Co. (Limited).—Please note that we have assigned our interest in the goods as per this invoice to the London and Yorkshire Bank (Limited), Driffield, to whom you will pay over proceeds of sales from time to time, rendering statement to us. (Signed) B. Fawcett and Co."

This document was dated Dec. 9th, 1893. On March 10th, 1894, Messrs. Gibbings and Co.'s solicitors wrote the plaintiffs that B. Fawcett and Co. laid claim to the proceeds of the goods in their hands, alleging that no assignment existed. Under those circumstances Messrs. Gibbings and Co. took out an interpleader summons to try the title to the proceeds of the goods as between the plaintiffs and the defendant, the receiver appointed by the Court of Chancery of the estate of Benjamin Fawcett.

The Lord Chief Justice in giving judgment said he had first to observe on the view he took of the facts that the transaction on Dec. 6 or 7 was effective as between the plaintiffs and F. Fawcett as an equitable assignment by way of

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**From the fuller report in* The Times Law Reports.

security of the goods in the hands of Gibbings and Co., and that, as between the plaintiffs and Fawcett, notice to Gibbings and Co. was not necessary, although notice was prudent and proper in view of an assignee for value without notice or in the event of the bankruptcy of F. Fawcett. It was said the document of Dec. 9th was an assurance or authority to receive possession of the goods. As regarded that argument he took the law to be correctly laid down in *Newlove v. Shrewsbury*. In this case the right to possess the goods could be proved without reference to any documents. The right to possess the goods was complete before the assignment. It was said parol evidence could not be given, and reference must be made to the document itself. The document was not an agreement between the parties, but a notification that the goods had been assigned to the bank. It was not intended that the bank should have physical possession of the goods. Could the document be said to come within the Bills of Sale Acts? Not so if he was right in his view of the facts. The Bank could have given notice to Gibbings and Co. without reference to the document of Dec. 9; more, the document did not contemplate change of possession and was not an authority to take possession of personal chattels. If that right existed it took place on Dec. 6 or 7. It was very clear that the transaction was not within the spirit or mischief guarded against by the Bills of Sale Acts. He had to recollect that those Acts were directed against documents and not transactions. In the view he took, he thought he had acted in accordance with the law in *ex parte Close* and *ex parte Hubbard*. He therefore gave judgment for the plaintiffs, with costs.

The Ecclesiastical Commissioners for England vs. The Royal Exchange Assurance Corporation*

Where a conveyance of property is completed without a transfer of the existing insurance, and loss by fire ensues, no legal claim exists under the policy.

This was an action to recover a loss under a policy of insurance upon a farm house. The policy had been issued to the Dean and Chapter of the Cathedral Church of Canterbury at a time when the property stood in their name.

The Ecclesiastical Commission Act, of 1868, empowers the Commissioners to lay before Her Majesty in Council schemes for effecting *(inter alia)* the transfer to the Commissioners of property of the Dean and Chapter, for such considerations as

**From the fuller report in* THE TIMES LAW REPORTS.

they considered proper, and it provides that after the publication of an Order-in-Council ratifying any such scheme, and without any further conveyance, the property expressed to be transferred shall vest in the transferees. In conformity with this Act, on 7th Aug., 1894, an Order-in-Council was made ratifying a scheme by which land, including the farm in question, was transferred from the Dean and Chapter to the Commissioners, no provision being included in the scheme, however, for a transfer of the insurance. The Order-in-Council was gazetted on 17th Aug., 1894, effectually completing the conveyance of the property, and on 19th Aug. the farm house was destroyed by fire. The insurance company refused to pay a claim under the policy, and this suit was brought.

Mr. Justice Charles, in giving judgment, said:

Reading sections 3 and 6 of the Ecclesiastical Commission Act, 1868, it is clear there was a transfer without any further conveyance from the Dean and Chapter to the Ecclesiastical Commissioners, and, also without any further conveyance, a transfer from the Ecclesiastical Commissioners of property (which I am told was tithes) by way of consideration. The whole transaction was complete. Can anybody sue? The Commissioners cannot sue because there has been no assignment of the policy to them. Can the vendors, the Dean and Chapter, sue? It is suggested that they can, but it is quite clear on reference to the cases of *Collingridge v. Royal Exchange Assurance Corporation* and *Rayner v. Preston*, that the reason why it was held in the former case that Collingridge could sue was that there had been no conveyance and no money paid by the purchaser. In this case the vendors have conveyed away their property and received their consideration, and it is not at all analogous to the Collingridge case. I must therefore give judgment for the defendants, with costs.

Supreme Court, Canada

J. B. Rolland and others, Appellants. La Caisse d' Economie, Respondent

Where a Savings Bank advanced money on certain securities upon which they were not authorized by law to lend, it was held that this did not invalidate their claim upon the borrower's estate, as against his creditors.

The material facts here are as follows:

In February, 1891, one J. A. Langlais borrowed from La Caisse d' Economie sums of money aggregating $82,500, on the

security of documents described as Letters of Credit signed by the Provincial Secretary and the Prime Minister of Quebec respectively. Langlais assigned without having made repayment of any portion of these advances.

Langlais' estate having been disposed of, the Curator prepared a dividend sheet for the purpose of distributing the moneys realized, and on this sheet the bank was collocated for the amount of its claim, *i.e.*, for $87,504.76. The claim was contested by the Curator, but the contestation, which was tried before the Superior Court at Quebec, was dismissed. From this judgment an appeal was taken by Mr. Rolland, a creditor and the appellant herein, and the Court of Queen's Bench allowed the appeal in part, holding that the bank was entitled to rank for the amount of the loans, but that it was not entitled to interest thereon. From this judgment both sides appealed to the Supreme Court.

The Caisse d' Economie is a savings bank, governed at the time the transactions were entered into by the provisions of Chapter 122 of the Revised Statutes of Canada. Section 20 of this statute provides that the Bank may lend its moneys to individuals or corporations if collateral securities of a nature specified in the statute are taken, and the ground upon which the claim was contested was that the Letters of Credit not being such a security the loans were *ultra vires* of the bank and the estate was therefore not liable to pay it.

The Supreme Court gave judgment establishing the right of La Caisse d' Economie to rank for the principal and interest of its advances. The following are extracts from the judgment, which was delivered by Taschereau, J.:

The principal appeal must fail. I would have dismissed it at the hearing, without calling on the respondent. Such an attempt to plunder this bank in the name of public order and public policy, such a self-constituted championship of public interests in order to defeat a legitimate claim, cannot receive the countenance of a court of justice. The appellants' contention that Langlais received no legal consideration for his undertaking to pay the bank the sum of $82,500, with interest, is to me an astonishing one.

Was not the good legal coin to that amount (less discount) advanced to him by the bank, a consideration? And a most valid and substantial one? . . .

Assuming that the bank had not the power to lend him that money, did not Langlais, nevertheless, receive, as a matter of fact, a good and valid consideration for his promise to pay both capital and interest?

Can he say that he gave his note without consideration, or for an illegal consideration?

Is it not the converse, and he, or the appellants for him, who want to pocket over $82,000 of the bank's funds, without ever having given any consideration for it to the bank?

He gave his note for value received. Did he not receive this value? Is there anything illegal in his promise to pay it back? The illegality, it is plain, would be the other way; he would, if the appellants' contentions prevailed, have got richer by $82,500 to the clear detriment of the bank.

Then there is no direct prohibition in the statutory provision affecting this case, as there was in *Bank of Toronto v. Perkins*; and nullities of the nature of those in question in that case must be restricted to the narrowest limits. But, say the appellants, the statute does not empower the bank to effect loans on the pledge of such securities as those taken from Langlais, and consequently it acted *ultra vires* in the matter.

But assuming this to be so, that might perhaps affect the pledge as regards third parties interested in the securities pledged, but it does not bear in the least upon Langlais' contract to pay; and the appellants cannot avail themselves of it to repudiate Langlais' liability towards the bank.

The contract of loan and the contract of pledge, are so far reciprocally independent that one may stand and the other fall. They are separable contracts. . .

It is an incontrovertible proposition that no private individual has the right to institute legal proceedings against a corporation, on account of *ultra vires* acts of the said corporation, however great the detriment caused by these acts to the public or to others than himself, unless he has, himself, been personally damnified.

Now, as a general rule, what cannot be used as a weapon cannot be resorted to as a shield, and any one who has incurred liabilities under an executed contract with a corporation, of which he has got the benefit, cannot get rid of his liabilities on the sole ground that the corporation acted in the matter beyond its powers, though within the purposes for which it was created, unless he has a legitimate interest to do so, or has suffered, or is exposed to suffer, from the alleged infringement of the corporation's charter.

And here not only has Langlais not suffered any prejudice or been damnified in any way by the act of the bank, but it is to damnify the bank and burden it with the loss of over

$80,000 that, in the name of public order and public interests, he, or the appellants for him, impugn his dealing with the bank as *ultra vires*, in order to repudiate his promise to pay, after having had the full benefit of the contract. A more flagrant misapplication of the doctrine of *ultra vires*, it is hardly possible to conceive. If the bank had lent this money to Langlais without any security whatever, the appellants would contend, forsooth, that Langlais was not bound to repay it, because the bank is not authorized to lend without security; they would contend that a party can go to a bank, get his note discounted, and at maturity refuse to pay it on the ground that the bank had no authority to advance him that money, and had acted beyond its statutory powers in doing so. . .

And it is not merely the contract of loan that Langlais, and the appellants for him, are precluded from impugning. The pledge itself of these securities, likewise, they cannot be admitted to assail. For Langlais is, in law, the warrantor of the bank upon this contract of pledge; a pledge implies a warranty from the pledger, and even if these securities had not belonged to Langlais, yet this pledge would have been perfectly valid as between him and the bank. . .

Langlais' insolvency has substituted the creditors to all his rights, but they must, with his rights, bear the burden of his liabilities. They are seized with his estate, but *cum onere*. That estate is the common pledge of what is due to the bank by Langlais, as it is of what is due to themselves; they are on an equal footing.

Court of Appeal, Ontario

Duthie vs. Essery et al.

Where a promissory note payable to a named payee is endorsed by another person before delivery of the note to the payee, the former is liable as endorser to a holder in due course by virtue of sections 56 and 88 of the Bills of Exchange Act.

This was an appeal by the plaintiff from the judgment of His Honour Judge MacDougall in the County Court of York.

The facts are sufficiently indicated for our purposes in the judgment of MacLennan, J. A., following, the Court of Appeal being unanimous in allowing the appeal:

The notes sued on were made by the defendant Essery, payable to the order of a firm of George Duthie & Sons. They were then endorsed by the respondent, the defendant Keith, in blank, and were delivered to the payees by the maker for

valuable consideration. The payees then endorsed them for value to the plaintiff, the endorsement of the payees being written beneath the signature of the respondent Keith. The notes were duly presented at maturity, and dishonored, and notice of dishonor was given in due course to the respondent. The respondent Essery allowed judgment to go by default, and the defendant Keith set up two defences, first, that he had endorsed without value, not for the accommodation of the maker, but for that of the payees; and, secondly, that having regard to the form of the instrument and the position of his name thereon, he could not be held liable at all. The learned County Court Judge dismissed the action, and the plaintiff appealed. The first ground of defence was given up before us, and the respondent relied upon the second ground alone. It was not disputed that the respondent was well aware, when he endorsed the notes, that they were made by Essery for value as between him and the payees, and in fact they were made by Essery and endorsed by the respondent by way of renewal of other notes of exactly similar form, given to and held by the payees for value.

I am of opinion that the case is governed by section 56 of the Bills of Exchange Act, and that our judgment must be for the plaintiff.

The section referred to enacts that "where a person signs a bill otherwise than as a drawer or acceptor, he thereby incurs the liability of an endorser to a holder in due course, and is subject to all the provisions of this Act respecting endorsers." The section is in terms applicable only to bills, but by section 88, subject to certain provisions not here pertinent, the provisions of the act relating to bills of exchange are made applicable with the necessary modifications to promissory notes, and it is declared that for that purpose the maker of a note shall be deemed to correspond with the acceptor of a bill, and the first endorser of a note shall correspond with the drawer of an accepted bill payable to the drawer's order. Therefore when we wish to apply section 56 to a promissory note, such as that in question, we must read it thus: "Where a person signs a note otherwise than as a maker or payee," etc., for according to the terms of these notes the first endorser must be the payee. The defendant certainly did not sign either as maker or payee, and therefore by force of the statute, having signed it, he incurred the liability of an endorser to a holder in due course. It is clear that the plaintiff is a holder in due course, and the notes having been presented, and notice of dishonor having been given, the defendant is liable.

Chancery Division, Ontario

Bridgewater Cheese Factory Co. vs. Murphy*

Where a banker in good faith discounted a note purporting to be given by a company, placing the proceeds to the credit of their account in his books, the amount being afterwards paid out to meet the liabilities of the company, it was held that the banker had a right to charge back the note to the company's account, or, if the company repudiated liability for the note, to strike the credit entry from the account.

The facts in this case, as set out in the judgment of Street, J., before whom the case was first tried, are as follows:

The plaintiffs are a company incorporated under the Ontario Statute, 51 Vict. ch. 24.

Their by-laws produced enact that the affairs of the company shall be managed by the president and a board of four directors. One Sexsmith was appointed president, and he also acted as treasurer of the company, and kept an account with the defendants, who are private bankers, headed in their books: "E. Sexsmith, President, Bridgewater Cheese Factory," upon which he was in the habit of issuing cheques signed "E. Sexsmith, president." On December 12th, 1892, this account was overdrawn to the amount of $57.82, and on that day Sexsmith made a note for $1,600 in favor of the defendants, which he signed, "E. Sexsmith, president," and to which he attached the seal of the company. This note the defendants discounted, placing the proceeds to the credit of the account. Of the proceeds of this discount, $1,343.76 was paid out by cheques drawn on the account by Sexsmith to various persons who were creditors of the company, and the balance went to cover overdrawn account with the defendants and another similar bank account. At the time it was discounted, and at the time these moneys were paid out, Sexsmith was a defaulter to the company in an amount much exceeding the amount of the note. The note was made without the knowledge or authority of the directors of the company, who were also unaware of the fact that Sexsmith was a defaulter; but they were aware of the fact that this bank account was kept by Sexsmith in his own name as president, and that he issued cheques upon it in his own name as president. The deposits in this account were solely of moneys derived by Sexsmith from the sale of the company's cheese; and the cheques

**From the fuller report in the* ONTARIO REPORTS.

upon it were solely in payment of claims against the company, and these facts were known to the defendants. The $1,600 note was renewed, and was then again renewed for $1,611, and was on June 19th, 1893, charged up by the defendants to the bank account above mentioned at its maturity, without any authority from the directors of the company. Sexsmith absconded about December 6th, 1893. The effect of charging the note to the bank account on June 19th, 1893, was to overdraw it to the extent of $1,200.99; but this overdraft was covered and converted into a credit balance by two deposits made in July of money received by Sexsmith during that month from sales of cheese. This was afterwards converted into a debit balance or overdrawn account of $110.94 by cheques drawn by Sexsmith on the account for payments made on behalf of the company. This overdrawn account was balanced on September 18th, 1893, by a deposit of $110.94 to the credit of the account. This is the last entry with the exception of a small debit and credit of $8.10. At the time Sexsmith absconded, he was a defaulter to the company. At the time the note of $1,611 was charged to the bank account on June 19th, 1893, he had received in all from first to last for sales of cheese, $12,230.80, according to the Master's report, and had paid out $12,199.04, so that he owed the company only $31.76.

Action was brought by the plaintiffs to recover from the defendants the $1,611 which would have been at the credit of the bank account had the $1,611 note not been charged. It was contended that Sexsmith had no power to bind the company by making a note in its name, even though he signed it as president and affixed the corporate seal to it.

At the conclusion of the evidence at the trial at Belleville, on March 7th and 8th, 1894, the learned Judge held that the only claim the defendants could have against the plaintiffs was for such portion, if any, of the proceeds of the $1,600 note as were applied for the benefit of the plaintiffs—not determining then whether the plaintiffs would be liable to pay it, if Sexsmith merely replaced moneys which he had misappropriated, by the proceeds of this note; and a reference was directed to Mr. A. G. Northrup to ascertain the state of account between Sexsmith and the company at the time the $1,600 note was discounted,

and at the time it was charged to the plaintiffs' account; and also to ascertain whether any, and if so, what debts or liabilities of the plaintiffs were, in fact, paid out of the proceeds of the $1,600 discount, or what portion, if any, of such proceeds were applied to the benefit of the plaintiffs.

The Master reported that all the proceeds of the note went to the plaintiffs' account in the bank, and were applied to pay liabilities of the plaintiffs, so that they got the whole benefit of it.

On 18th Oct., 1894, at Toronto, the plaintiffs, before Street, J., moved for and obtained judgment for the amount claimed with costs, the decision being based on the ground that as a matter of law the note was not a note of the plaintiffs, but was the individual note of Sexsmith, who had borrowed the money from the defendants to make good his defalcations to the company; and that as a matter of fact the account to which the note was charged was a trust account, the moneys at the credit of which belonged to the plaintiffs, as the defendants were aware.

The defendants, on 21st Feb., 1895, before the Divisional Court, consisting of Robertson and Meredith, JJ., moved against the above judgment, and the same was reversed. The decision of the court was delivered by Meredith, J. In the course of his remarks the learned Judge said:

Upon the facts as found it seems to me necessary only to state the case to show that they cannot recover, unless by some legal fiction we are prevented from doing justice between the parties.

The facts are that the president of the company opened a bank account for the plaintiffs with the defendants; that was in reality, whatever it may have been in law, the plaintiffs' account; if not, they fail, for the action is to recover the balance of that account. The president of the company, acting for the company, and in the name and upon the credit of the company, discounted the note in question as the company's note, and had the proceeds of the note placed to their credit in that account. That note was, as is very usual, renewed more than once, and finally charged up in the usual and proper course of business to that account. Now, the plaintiffs are suing for the balance of that account; and admittedly there is no balance, unless they can repudiate liability upon the note, and at the same time take the benefit of it. Surely, when they say you cannot charge us with that note because it was *ultra vires* of the company to

make a promissory note, or beyond the authority of our president to negotiate it—though, by the way, he was permitted, as a matter of fact, to take almost absolute control of the company's business for the company—it is quite open to the defendants to say, very well, then, we strike it out of your account altogether, the credit as well as the debit. It is not as if the defendants were suing the plaintiffs upon that note, whatever might have been the result of that action, having regard to the fact that practically the whole of the proceeds of it are traced into proper payment for the company, and most, if not all, into payment to the members of the corporation who are seeking now to recover a sum which in honesty and fair dealing they are not entitled to. It is a simple case of a person seeking to take the benefit without assuming the burden of a single transaction. The onus is upon the plaintiffs to show that they were entitled to be credited with the sum in question, and that the defendants are accountable to them for it. The credit of the sum in their account—if they do not repudiate the account—might alone be enough *primâ facie* proof; but in proving that the whole facts come out, and they are placed in a position where they must affirm or disaffirm the transaction; if they affirm, they are right in charging the defendants as they have done, but are bound to credit them with the note when it eventually comes home to them; if they disaffirm the transaction then they prove that they are not, and never were, entitled to the sum in question; and so in either case their action fails, and should have been dismissed; unless, indeed, they can show, as eventually upon the argument before us they sought to, that the loan was in reality one to the president of the company individually, and the proceeds deposited by him to the company's credit as a payment to them, which it was urged was likely, as he is supposed to have been a defaulter in respect of the company's funds at the time; but the finding of the learned trial Judge is entirely, and rightly so, against any such contention; if it had been otherwise there might have been cause for finding fault with it.

The ground upon which the learned trial Judge decided the case in the plaintiffs' favor appears to be this: that the making of a promissory note was *ultra vires* the company—for otherwise there would appear to be quite enough in evidence to estop them from setting up mere want of authority in the president to negotiate it as he did—and being *ultra vires*, could not in law have been, however plainly in fact it may have been intended to be, the company's note, and therefore it must be taken to be the personal note of the president, the proceeds his property, and such proceeds being placed to the credit of the company, could be retained by them to answer his debt to them. If the plaintiffs were suing the president individually, and the act were

ultra vires, no doubt he would be liable, and could not at law give parol evidence to show that he was not the party intended to be charged. . . . The plaintiffs are, if the transaction were *ultra vires*, no parties to it; the defendants are not suing upon it, or setting it up in defence; how then can the plaintiffs hold the defendants to that which the defendants might, if they chose, claim to be its legal effect, contrary to the reality of the thing, and contrary to what the instrument purports to be, and what the parties to it maintain the transaction was?

QUEEN'S BENCH DIVISION, ONTARIO

Molsons Bank vs. Cooper *et al.*

A Bank holding a judgment against a customer for a debt representing advances made on the security of collateral notes, must give credit on the judgment for all moneys collected from the collateral security, and can only rank on the estate for the amount of the judgment which is unsatisfied by such moneys.

The facts in this case are as follows: The plaintiffs gave the defendants, Cooper & Smith, wholesale merchants, Toronto, a line of credit "to be secured by collections deposited." The customers' notes handed to the Bank as security in terms of this credit were entered in a book which was headed as follows: "The notes enumerated in this book are deposited with the Molsons Bank as collateral security for advances made to us by the bank in discounts and overdrafts." This was signed by the defendants.

As the collateral notes matured, they were from time to time withdrawn by the defendants for collection; other similar notes being substituted for those withdrawn. In 1893, the defendants stopped payment, and subsequently the plaintiffs recovered judgments against them upon notes then overdue, and placed executions in the sheriff's hands; other creditors obtained judgments also against the defendants and placed executions in the sheriff's hands. The sheriff seized and sold goods of the defendants, but the amount was insufficient to pay all the executions in full, and he proceeded to a *pro rata* distribution under the Creditors' Relief Act.

Some of the other creditors disputed the amount of the plaintiffs' claim, insisting that it should be reduced by the amount of the collections upon the collateral securities made before and

after the judgment was recovered. The defendants also applied in Chambers to have satisfaction *pro tanto* or in full entered upon the judgments by reason of the payments received by the plaintiffs upon these collateral securities. The latter motion came by way of appeal or adjournment before the Divisional Court of the Queen's Bench Division, who directed an issue styled *Cooper v. Molsons Bank*, to be tried to determine whether before or since the recovery of the judgments the plaintiffs had received any payments which ought to be applied in whole or in part of the judgments or any of them. A similar issue styled *Mason v. Molsons Bank*, was directed to be tried in the contestation made by the other creditors. Both issues were tried before Rose, J., on 13th April, 1894, and judgment given in favor of the Bank, the finding of the Court being to this effect: That the paper deposited with the Bank was regarded by both parties as security for the whole account and not for any particular portion thereof, and that the bank was entitled to rank upon the estate for the amount of its judgments, and to treat the moneys received from the collaterals as applicable to the balance of their advances remaining after receipt by them of a *pro rata* share of the estate under their judgments.

From this judgment the defendants appealed. The appeal was argued on 25th May, 1895, before a Divisional Court composed of Falconbridge and Street, JJ., and the judgment of the Court, reversing Rose, J., was delivered by Street, J. From this we quote:

I cannot see that the case of *Eastman v. Bank of Montreal*, 10 O.R. 79, and the cases upon which it is based, support the contention of the plaintiffs under the circumstances of the present case. In the first place it is to be observed that since the decision in the *Eastman* case, the law has been altered by statute, and a creditor coming in to prove under an assignment for the benefit of creditors, is bound to state what securities on the estate of the insolvent he holds for his claim, and to value those securities, if any, and his proof is to be allowed for the balance only after deducting such value: R. S. O. ch. 124, sec. 19, sub-sec. 4.

In the next place the question here is not the amount for which the plaintiffs are entitled to rank upon an insolvent estate, but the amount for which they should have judgment against the defendants upon these notes; that is to say, whether the defendants now, in addition to the sums for which

the plaintiffs have judgments against them, owe to them, upon a proper accounting, any further sum, and if so, how much.

I can find in the documentary evidence of the terms on which these notes were deposited with the plaintiffs—and that is the only evidence before us—nothing to take the deposit out of the rule which should be applied to a simple deposit of notes by a debtor with a creditor as collateral security for the payment of his debt. In such a simple case, I take it that when the creditor's debt matures and he receives payment of the collateral notes, he is not entitled to say that he will carry these payments to a suspense account, and recover judgment for the whole amount of his debt without crediting anything.

The object of depositing the collateral notes with the creditor, was to enable him to pay himself by collecting them if the debtor failed to pay his debt when due; and the creditor cannot without the consent of the debtor collect the notes, and then his debt being due, refuse either to pay himself or give the money he has collected back to the debtor.

Special principles have been laid down governing this general rule when the question is one of proof against an insolvent estate; but even there the creditor is bound to credit the proceeds of collaterals realized by him before his proof is made. . . . And as I have pointed out, this rule no longer exists in this province in the case of assignments for the benefit of creditors. . . .

There being, therefore, in my opinion, no agreement here controlling the right of the defendants to have these payments applied on their debt to the plaintiffs, and no principle of law or equity applicable to the existing circumstances of the case entitling the plaintiffs to refuse to apply them, I think we are bound to order that the plaintiffs, now that their whole debt is overdue, shall give credit for them; and as they must be taken to have elected upon the former proceedings to apply them upon the portion of their debt not then due, they must adhere to their election and apply them accordingly.

Re Commercial Bank of Manitoba, La Banque d'Hochelaga's Case*

Where a bank accepts or certifies a cheque at the request of the drawer, and the cheque is afterwards altered by the drawer so as to be made payable to bearer instead of to order, the bank is not liable to the drawer or his assignees on the altered cheque, such alteration being a material one, although not one of the kind specified in sec. 3 of the Bills of Exchange Act.

The material facts of this case are as follows: One A. H.

**From the fuller report in the* MANITOBA REPORTS.

Corelli drew a cheque upon the Commercial Bank of Manitoba, payable to the Equitable Life Assurance Society or order, and had it marked by the bank with its acceptance stamp and sent to the agents of the Equitable Society in Toronto. The bank immediately afterwards suspended payment, whereupon Corelli regained possession of the cheque, scored out the word "order" and inserted "bearer," initialing the alteration. He then lodged the cheque with the Hochelaga Bank as security for an advance, and the latter made a claim upon the liquidator of the Commercial Bank for the amount of the cheque. The liquidator contested the claim, and proposed if the claim were not allowed, to set off the indebtedness of Corelli to the Commercial Bank against the balance there would then be at the credit of the account.

It was held that there was a material alteration in the cheque, and that the holder could not recover from the drawee.

SUPREME COURT, CANADA

Clarkson et al. vs. McMaster*

An unregistered chattel mortgage is void as against creditors.

The facts of the case are as follows:

On 10th October, 1893, one A. L. Davis executed a chattel mortgage in favor of McMaster & Co., covering all his goods, stock, and other assets, the consideration being stated as $1,600.63. Davis was then indebted to other persons in large amounts, his statement of his affairs showing liabilities of $2,901.71—a large portion of this being overdue,—and nominal assets of $4,600.

At the time of the execution of the chattel mortgage it was agreed between Davis and McMaster & Co. that the mortgage would not be registered, Davis being apprehensive that registration of the mortgage would affect his credit. On 7th November, 1893, McMaster & Co. took possession of the mortgaged property, and on 13th November Davis made an assignment to the

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*ED. NOTE.—Judgment in this most important case has just been rendered, and copy of the judgment comes to hand as the first forms of the JOURNAL are going through the press—too late to permit of comment.

plaintiff Clarkson, under the provisions of the Ontario statute. On the 14th November, while the goods were in the possession of McMaster & Co., the action in question was instituted by the assignee to restrain McMaster & Co. from selling the goods. Prior to the trial McMaster & Co. realized the goods, receiving the proceeds.

Mr. Justice MacMahon, at the trial, held the mortgage to be void for want of registration, and was of opinion that under the statute amending the Chattel Mortgage Act, subsequent taking of possession did not remedy this defect, and he ordered McMaster & Co. to account to the assignee for the proceeds.

The Court of Appeal reversed this decision (Hagarty, C. J., dissenting) and dismissed the action. The case was then taken to the Supreme Court, where the decision of the Court of Appeal was reversed. We quote the judgment of Strong, C. J. :—

In the view which I take of this case, it is not necessary that I should express any opinion as to the validity and *bona fides* of the mortgage so far as it is impeached upon the grounds of the mortgagor's insolvency and as a fraudulent preference, and therefore I refrain from doing so. I may say, however, that upon facts disclosed by the evidence, which are undisputed, and which are therefore open for consideration by an appellate Court, I should entertain grave doubts as to the validity of the transaction as against the creditors of the mortgagor, apart altogether from the non-delivery of possession, the want of registration, and the express agreement not to register the mortgage, questions which I propose to consider.

Under the statute law regulating chattel mortgages in the Province of Ontario, applicable to the mortgage now in question, I am of opinion that the appellants are entitled to attack the transaction, thus differing from the majority of the Court of Appeal, and agreeing in the conclusion of the learned Chief Justice of Ontario.

The general Act, relating to mortgages of chattels (R.S.O., ch. 125), was amended and extended by the Ontario Statute (55 Vic., ch. 26). By section 2 of that Act, it was enacted as follows :—

> "In the application of the said Act, and of this Act extending and amending the same, the words 'void as against creditors' in said Act shall extend to simple contract creditors of the mortgagor or bargainor suing on behalf of themselves and other creditors, and to any

assignee for the general benefit of creditors within the meaning of the *Act respecting Assignments and Preferences by Insolvent Persons* and amendments thereto, as well as to creditors having executions against the goods and chattels of the mortgagor or bargainor in the hands of the sheriff or other officer."

And section 4 of the same Act provides:—

> "A mortgage or sale declared by said Act to be void as against creditors and subsequent purchasers or mortgagees, shall not, by the subsequent taking of possession of the things mortgaged or sold by or on behalf of the mortgagee or bargainee, be thereby made valid as against persons who became creditors, or purchasers, or mortgagees before such taking of possession."

These enactments were undoubtedly intended by the legislature to obviate the construction which the court had put upon the provisions embodied in chapter 125 of the Revised Statutes of Ontario. Section 1 of that Act provides that:—

> "Every mortgage of goods and chattels not accompanied by an immediate delivery, shall, within five days from the execution thereof, be registered, etc."

And section 4 of the same Act provides that:—

> "In case such mortgage or conveyance and affidavits are not registered as hereinbefore provided, the mortgage or conveyance shall be absolutely null and void as against the creditors of the mortgagor, and against subsequent purchasers or mortgagees in good faith for valuable consideration."

The mortgage now in question was not registered within the prescribed time, nor was there immediate delivery of the mortgaged goods. A line of decisions in the courts of the province had, previously to the passing of the Act of 1892, established that, in the construction of the first section of the Chattel Mortgage Act just set forth, the word "creditors" was to be construed as meaning "judgment creditors," and the words "null and void" as meaning "voidable." It was also held that the mortgagee might at any time validate a mortgage invalid for want of possession or registration, by taking possession of the mortgaged property. If it were necessary now to determine whether this construction was or was not correct, I am compelled to say, with great respect for the opinions referred to, that I should find great difficulty in agreeing with these decisions. First, I see no reason why the word "creditors" should be restricted to a particular class of creditors, viz., judgment creditors. Why should the same word receive a dif-

ferent construction in this Act from that which it has received as used in the statute of the 13th Elizabeth? I see no reason for any such distinction. It is true that equitable execution as consequential on the avoidance of a transaction under the 13th Elizabeth could not under the old system of separate jurisdictions for law and equity have been obtained by any but judgment creditors, but the deed was nevertheless held to be void as against simple contract creditors. In *Reese River Mining Co. v. Atwell*, it was held by Lord Romilly, M.R., that simple contract creditors were entitled to a decree declaring a deed void under the statute of Elizabeth, even though, not having obtained a judgment at law, they could not have had equitable execution; and, as is pointed out in *May on Fraudulent Conveyances*, this was only carrying out what is said in the judgment of Lord Hardwicke in *Higgins v. York Building Co.*, where occurs the following passage:—

> "I do not know in the case of fraudulent conveyances that this Court has ever done anything more than remove fraudulent conveyances out of the way, nor any instance of a decree for sale, but equity follows the law and leaves them to their remedy by elegit, without interfering one way or the other."

And that an instrument fraudulent under the statute was void against all creditors, was also demonstrated by the well-established practice of Courts of Equity in administering assets, which was not to require a judgment at law, but to treat deeds fraudulent under the statute as void against all creditors, and to deal with the property purported to be conveyed by such instruments as assets for the payment of simple contract as well as all other creditors. Then there are reasons which, in my opinion, require a liberal construction of the word "creditors," derived from the manifest policy of the Chattel Mortgage Act. Registration or possession were required manifestly for the protection, not only of actual creditors, but of those who might become creditors, relying on the visible possession of property by their debtor, and the absence from the appropriate registry of any charge upon that property; and this for the protection of those who had not had an opportunity of recovering judgment; creditors' payments of whose claims might be deferred, or who had not had time to get judgment. Again, I am not impressed with the soundness of the construction which reads the terms "absolutely null and void" as "voidable." So to cut down the words of the Act is, I venture to say, in direct conflict with the manifest policy of the Legislature, and is not justified by the consideration that creditors could not have the mortgaged chattels applied in payment of their debts until they had recovered judgment. The rule requiring a judgment-at-law

to entitle a party to equitable execution is to be ascribed to the reluctance of the Equity Courts in former times to entertain legal questions ; such questions were always sent to a court of law to be determined. The creditor's right to recover his debt was a purely legal question, and therefore he had to establish it by a judgment-at-law. This, however, by no means involved the necessity of saying that deed was not void under the statute of Elizabeth as against simple contract creditors. The authorities I have already referred to show that this proposition must be correct. Then, for these reasons deduced from the statute of Elizabeth, and the decisions on that Act, and on the policy which led to the legislation embodied in the Chattel Mortgage Act, I should have thought the word "creditors" in the latter Act ought to be construed as embracing all creditors. It follows from this that there was no sound reason for cutting down the expression "absolutely null and void" to "voidable." Lastly, if a chattel mortgage, not registered within the limited time, and where no possession has been taken, was absolutely null and void at the expiration of five days as against all creditors, I am unable to see how such a void security could be revived by the creditor simply taking possession of the goods. In the case of *Barker v. Leeson*, the learned Chancellor of Ontario delivered a judgment which, in my opinion, contains not only a correct construction of the statute, but also a sound exposition of the policy of the law and the intent of the legislature in enacting it.

The Act of 1892 was, however, passed by way of altering and amending the law as established by the authorities referred to, and it impliedly recognizes the construction thus placed upon the first statute as being at the time of the passing of the latter Act, the existing law. I do not, therefore, intend to decide this case upon my own view as to the proper interpretation of the original Act, but assuming that the previous decisions are binding authorities, I propose to place the decision of this appeal entirely upon the amending Act, 55 Vic., chap. 26, thus following the course of the learned Chief Justice of Ontario, who did not conceive himself in any way precluded by the state of the authorities from so doing. And doing this, I come to the same conclusion as the learned Chief Justice.

The second section of the Act announces that it is the intention of the Legislature thereby "to extend and amend" the existing law. How any extending or amending effect can be attributed to the Act consistently with the judgment now under appeal I am unable to see. Nothing can be more explicit and distinct than the declaration of the Legislature that mortgages in relation to which the requirements of the original Acts have not been complied with, shall be void as against simple contract

creditors. I do not construe this declaration as in any way fettered with any condition as to the form of suit; all I understand to have been meant by the words "suing on behalf of themselves and other creditors" was just this: that the mortgage being void as to all, any action which might be brought to obtain the benefit of the nullity enacted by the statute, should be on behalf of all creditors, so that all, and not merely those suing, might obtain the benefit of the Act. Then, applying this in the present case, this mortgage became absolutely null and void at the expiration of the five days allowed for registration. Then, the same second section provides that this avoidance shall inure to the benefit, not only of creditors who may sue on behalf of themselves and others, but also to the benefit of all creditors suing by their representative, the statutory assignee, for the benefit of creditors, who undoubtedly represents the creditors just as much as does in England an assignee in bankruptcy; and we constantly find cases reported in which such last mentioned assignees maintain actions to set aside deeds executed before their appointment. That being so, this mortgage being thus absolutely void under the Act of 1892, when the term for registration had elapsed, whatever the law may have been before, the assignee was entitled to maintain this action so soon as the assignment to him was completed, and I should be prepared so to hold even if there was not now a single creditor whose debt existed at the date of the mortgage, but only creditors whose debts had been contracted subsequently, for I think in construing these Acts (the Revised Statutes and the Amending Act together), we ought not to restrict the voidance of the mortgage to actual creditors at its date, but to extend its benefits to subsequent creditors, and that not only for the reasons stated in the judgment of the Chancellor before referred to, but on the very words of the section 4 of 55 Vic. chap. 26. This fourth section, in my opinion, very clearly indicates that creditors subsequent to the mortgage were intended to be included, for it expressly provides that taking possession under a mortgage void as against creditors shall not validate it against creditors who became such before taking possession.

Then, did the subsequent taking possession validate this mortgage, if it was, at the time possession was taken, absolutely "null and void"? If the foregoing reasons and conclusions are correct, this may be answered in the very words of section 4 itself, which says in so many words that a mortgage declared to be void as against creditors and subsequent purchasers or mortgagees, shall not, by the subsequent taking of possession of the things mortgaged, be thereby made valid as against persons who became creditors before such taking of possession. Credi-

tors now represented by the assignee became creditors before the taking of possession, and, therefore, upon the express words of the Act which require no construing, since what is already plain and explicit does not bear interpretation, the possession did not set up this mortgage against the assignee nor against the creditors suing conjointly with him.

Lastly, I am of opinion that this mortgage ought to be avoided on a ground altogether distinct from that before considered. Not only was there a non-compliance with the conditions of the Act in respect of registration and taking possession, but there was a distinct agreement between the mortgagor and mortgagee that there should be neither registration nor immediate possession ; in other words, that a transaction which the law required should be open and notorious—to be made so either by registering the mortgage or taking possession of the goods,—should be concealed from subsequent creditors, purchasers and mortgagees. This mortgage was, therefore, given in pursuance of an agreement to contravene the statute, and was, therefore, on the grounds of public policy, void *ab initio*. Whether the mortgagor was or was not insolvent at the date of the mortgage, this agreement, in my opinion, constituted what has been called a fraud upon the statute, and this upon the authority of the cases of *Jones v. Kinney*, *Ex parte Fisher*, and *Clarkson v. Sterling*, cited in the appellant's factum, in itself constitutes a distinct ground for holding the mortgage to have been a nullity from the beginning, and to have been a void instrument before the expiration of the term allowed for registration had expired. I have seen the case of *Morris v. Morris*, but I find nothing in that authority to alter the opinion I had previously formed. The statute there under consideration differed in important respects from that which applies to the present case.

The appeal must be allowed with costs in this Court and in the Court of Appeal, and the judgment of Mr. Justice MacMahon must be restored.

UNREVISED TRADE RETURNS, CANADA

(000 omitted)

IMPORTS

Quarter ending 30th September—	1894		1895	
Free	$12,275		$10,056	
Dutiable	15,288		17,163	
	$27,563		$27,219	
Bullion and Coin	3,376	$30,939	2,206	$29,425
Month of October—				
Free	$ 3,714		$ 3,820	
Dutiable	4,519		5,669	
	$ 8,233		$ 9,489	
Bullion and Coin	124	$ 8,357	897	$ 10,386
Total for four months		$39,296		$39,811

EXPORTS

Quarter ending 30th September—	1894		1895	
Products of the mine	$ 1,515		$ 1,930	
" Fisheries	3,969		3,168	
" Forest	9,529		10,236	
Animals and their produce	11,646		13,294	
Agricultural produce	2,588		1,511	
Manufactures	1,925		2,266	
Miscellaneous	46		74	
	$31,222		$32,481	
Bullion and Coin	449	$31,671	176	$32,657
Month of October—				
Products of the mine	$ 505		$ 671	
" Fisheries	1,757		2,505	
" Forest	2,932		2,903	
Animals and their produce	4,916		4,121	
Agricultural produce	3,210		1,469	
Manufactures	690		810	
Miscellaneous	16		14	
	$14,029		$12,496	
Bullion and Coin	26	$14,055	31	$12,527
Total for four months		$45,726		$45,184

SUMMARY (in dollars)

For four months—	1894	1895
Total exports other than bullion and coin..	$45,251,998	$44,977,694
Total imports " " " ..	35,796,590	36,708,718
Excess of exports	9,455,408	8,268,976
Net imports of bullion and coin..........	3,025,251	2,896,777

MONTHLY TOTALS OF BANK CLEARINGS at the cities of Montreal, Toronto, Halifax, Hamilton and Winnipeg

(000 omitted)

	MONTREAL		*TORONTO		HALIFAX		HAMILTON		WINNIPEG	
	1893-4	1894-5	1893-4	1894-5	1893-4	1894-5	1893-4	1894-5	1893-4	1894-5
	$	$	$	$	$	$	$	$	$	$
December	45,108	47,351	25,398	25,700	4,884	4,874	3,747	2,834	4,970	5,199
January ..	42,796	48,376	27,267	27,961	4,931	4,997	3,087	2,831	4,318	4,067
February	35,478	37,793	19,209	20,493	3,981	4,118	2,671	2,461	3,132	2,721
March ...	45,715	42,464	22,894	22,332	4,745	4,174	2,739	2,462	3,510	2,929
April	40,942	41,906	21,473	21,961	4,468	4,414	3,078	2,611	2,959	3,093
May	45,586	51,969	24,174	25,698	4,871	4,964	2,978	2,704	3,455	4,156
June	44,704	52,353	21,965	26,772	4,471	5,090	2,753	2,913	3,329	3,865
July......	45,223	51,902	23,763	26,838	5,492	5,739	2,682	2,972	3,570	4,038
August ..	44,383	49,314	21,779	23,235	5,407	6,264	2,546	2,726	3,695	3,937
September	46,855	45,251	20,078	22,543	5,062	4,694	2,686	2,706	3,975	4,008
October ..	55,730	53,298	25,750	28,437	5,452	5,613	3,155	3,402	6,786	7,911
November	51,838	54,397	25,214	28,633	5,021	5,444	3,092	3,363	6,607	8,503
	544,358	576,374	278,964	300,603	58,785	60,385	35,214	33,985	50,306	54,427

*NOTE.—These totals do not include the Bank of Toronto.

STATEMENT OF BANKS acting under Dominion Government charter for the months of September, October and November, 1895, and comparison with November, 1894:

LIABILITIES

	30th Sept., 1895	31st Oct., 1895	30th Nov, 1895	30th Nov., 1894
Capital authorized	$73,458,685	$73,458,685	$ 73,458,685	$ 73,458,685
Capital paid up	61,780,328	61,965,098	62,094,573	61,669,355
Reserve Fund	27,158,799	27,158,799	27,233,799	27,287,526
Notes in circulation	$32,774,442	$34,671,028	$34,362,746	$33,076,868
Dominion and Provincial Government deposits	9,511,782	6,968,686	8,188,906	5,134,883
Public deposits on demand	67,774,818	67,812,853	67,573,438	69,364,659
Public deposits after notice	116,634,486	118,852,499	120,264,326	113,842,322
Bank loans or deposits from other banks secured	17,115	28,293	28,240	27,820
Bank loans or deposits from other banks unsecured	2,818,077	3,764,351	2,686,202	2,947,418
Due other banks in Canada in daily exchanges	144,943	173,681	115,580	158,087
Due other banks in foreign countries	171,861	215,853	220,985	156,752
Due other banks in Great Britain	3,868,060	4,380,391	3,704,022	3,089,477
Other liabilities	358,879	502,476	1,172,322	799,520
Total liabilities	$234,074,548	$237,370,196	$238,316,844	$228,597,876

ASSETS

Specie	$ 7,575,318	$ 7,407,504	$ 7,349,768	$ 7,958,432
Dominion notes	15,960.092	16,221,325	16,031,512	14,790,407
Deposits to secure note circulation	1,814,624	1,814,624	1,814,624	1,810,736
Notes and cheques of other banks	7,818,012	7,566,814	7,163,592	7,343,825
Loans to other banks secured	17,115	23,293	23,240	27,820
Deposits made with other banks	3,634,362	4,724,511	3,735,426	3,789,942
Due from other banks in foreign countries	26,690.316	26,968,225	27,773,910	25,274,625
Due from other banks in Great Britain	6,373,183	4,599,670	5,418,787	4,401,819
Dominion Government debentures or stock	2,687,044	2,828,226	2,830,276	3,124,844
Public municipal and railway securities	19,500,082	20,140.730	20 361,370	18,508,488
Call loans on bonds and stocks	17,096,695	17,197,537	17,104,427	17,722,565
Loans to Dominion and Provincial Governments	365,281	470,416	527,559	1,296,720
Current loans and discounts	197,729,334	201,753,216	202,090,122	195,823 973
Due from other banks in Canada in daily exchanges	236,517	304,873	127,009	146,324
Overdue debts	4,538,140	4,267,698	4,334,856	3,457,178
Real estate	1,242,741	1,237,749	1,229,819	893,260
Mortgages on real estate sold	608,441	601,035	579,475	603,895
Bank premises	5,657,926	5,663,043	5,659,868	5,459,813
Other assets	2,336,294	1,857,815	2,070,413	1,741,256
Total assets	$321,881,711	$325,648,490	$326,226,143	$314,176,123
Average amount of specie held during the month	$ 7,490,649	$ 7,492,921	$ 7,432,092	$ 7,748,339
Average Dominion notes held during the month	15,652,332	15,816,272	15,957,927	15,164,916
Loans to directors or their firms	7,941,317	8,717,336	8,401,123	7,978,669
Greatest amount of notes in circulation during month	33,153,175	35,393.876	36,197,769	35,640,491