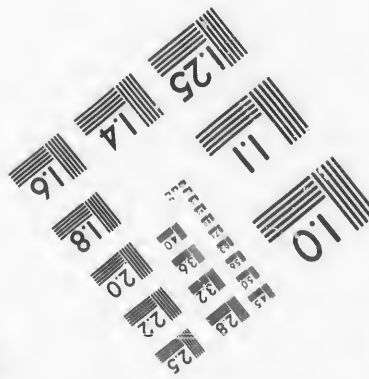
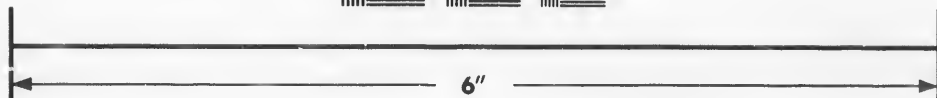
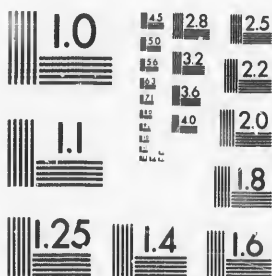


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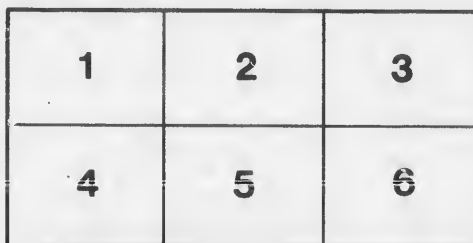
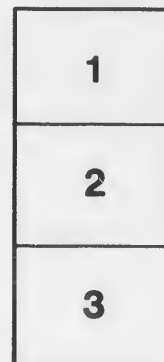
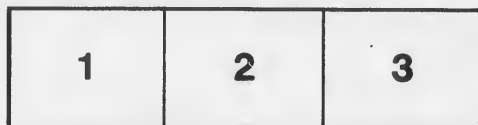
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OTTAWA, July, 1867.

THE HONORABLE

SIR JOHN A. MACDONALD, K.C.B.,

Minister of Justice.

Sir,

You have been good enough to say you considered my claim, as presented in 1865, to the Government at Quebec, to be possessed of strong equitable merits; and that if I would again present it, you would have it acted upon. I, therefore, beg respectfully to ask its consideration. The papers in the case are on file in the office of the Executive Council. And in addition thereto, I append a certified copy of two acceptances given me in July, 1859, in Washington, by the Hon. Lewis T. Drummond, at that time a member of the Provincial Parliament, and at present a Judge of the Court of Queen's Bench, of Lower Canada. These acceptances are of importance, as showing not only an acknowledgment of indebtedness in connection with Reciprocity Treaty expenses, but also, as proving the inducements which were used by Mr. Drummond to obtain possession of Senator Stephen A. Douglas's letter in my behalf, to which allusion is made at length in my affidavit and memorial heretofore presented.

I may be permitted to briefly recapitulate the principal facts upon which my claim is based:—

In the year 1854, I claim not only to have executed, in Washington, all the material work necessary to the successful conclusion of the Reciprocity Treaty, such as appearing before the Senate and House Committees, and presenting the merits of the question to individual members of Congress, but I also advanced the recognized agent of the Canadian Government a sum amounting to \$7,520, to meet engagements in connection with the Treaty, which the said agent alleged he had made, but which he had not the means of paying, and a failure to meet which, it was represented, would imperil the safety of that measure. This money has never been repaid me, nor have I been paid in any way for my services as aforesaid. By various pretences the said agent put me off from time to time from presenting my claim directly to the Canadian Government, principally by asserting that the Government had not paid anything, but that as soon as Parliament gave the necessary authority the money would be paid, and I would receive compensation not only for my services, but should be repaid the money I had advanced, with interest: and for which I held, and still hold, the said agent's notes, dated June, 1855, as set forth at length in my previous memorial.

In June, 1859, having reason to believe that the Canadian Government had already paid the said agent and his assignees large amounts, I applied to Senator Stephen A. Douglas, who was cognizant of my services and outlay in connection with the Treaty, to give me a certificate to that effect, with a view of presenting my claim thus endorsed, to the Canadian Government. Senator Douglas gave me a full and strong letter, placing the compensation to which he considered I was entitled at "at least \$24,000." About this time, namely, in July, 1859, the Hon. Lewis T. Drummond came to Washington, and spoke to me of my claim and of Senator Douglas's letter, which he had learned I had. He proposed that if I would entrust him with the letter in question he would lay it before his Government, and that he had no doubt its effect would be to secure the payment of a considerable sum. He stated that he held a power of Attorney from Israel D. Andrews, the agent of the Canadian Government, to receive all money due to him (Andrews) by the said Government, and that if I would entrust him with Senator Douglas's letter he would accept drafts drawn by Andrews in my favor for \$12,000, to be paid out of the said money. Knowing that Mr. Drummond had been a member of the Canadian Government, and that he was at the time a Member of Parliament, I did not hesitate to believe his representations; and upon his executing the acceptances, I placed Senator Douglas's letter in his hands. One of these acceptances, for \$6,000, I left for safe keeping, in my absence from New York, with a gentleman named

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Barnes, now I believe in California, and the paper has been mislaid. The other two, amounting to \$6,000, are in New York, and I enclose herewith a certified copy of them, sworn to before the Mayor of that city, by John W. Fowler, Esq., a well known and reputable member of the New York Bar. The originals will be produced if it is deemed necessary. I was told by Drummond and Andrews, subsequently, that Senator Douglas's letter had been presented to the Government, that it was deemed ample and satisfactory, and that, as soon as an appropriation could be had, the money would be paid. Hearing nothing further on the subject, I repaired to Quebec, in August, 1864, then to learn, for the first time, that Drummond's and Andrews' representations, so far as I was concerned, were altogether false; that Senator Douglas's letter had never been presented to the Government, that my name had been carefully kept from the knowledge of the ministers, and that, in the absence of such information, the Honorable Executive Council had made an Order, with regard to the balance of the money unpaid, which disposed of it before my claim could be considered.

It is under these circumstances that I now present my claim for equitable relief. You will observe by my former memorial, that I only ask for the return of the money I actually advanced the recognized agent of the Canadian Government for Reciprocity Treaty expenses, which he acknowledges, and also that he has never repaid me. But, at the same time, I ask for a just consideration of all the facts. I am satisfied from the evidence, that Drummond and Andrews conspired together to get possession of Senator Douglas's letter in my behalf, so as to prevent its being laid before the Canadian Government, fearing no doubt that the facts it contained, if known, would frustrate their intention of defrauding me not only out of the fruits of my labor, but the money I had advanced. In this view it is clear that Mr. Drummond's statement that he has lost the letter,* is a mere subterfuge, for he does not pretend he lost it immediately after it was placed in his custody, and he does not attempt to explain why he did not, at the time, present it to the Government, as he was pledged to do. Having obtained possession of the letter, he suppressed it, and paid no attention thereafter to the acceptances he had given in order to secure it. The inference is, therefore, irresistible, that having acted in bad faith in the matter of the acceptances—having acted in bad faith in suppressing Senator Douglas's letter, when he obtained it ostensibly for the sole purpose of immediately placing it on file in Canada—that his statement now, that the letter is lost, is improbable; and that his obtaining it from me was a conspiracy between Andrews and himself, by which to prevent my just claims from being considered.

All the statements heretofore presented are made under oath. I shall also append an affidavit to this memorial.

In conclusion, allow me to say, that I urge my case solely upon its equities. I do not propose to raise the point as to whether the acts of the agent, as a question of law, bind the principal. It would be an insult to the honor of the Canadian Government to suppose, even by implication, that it desired to avail itself of mere legal technicalities—should such exist—to avoid the repayment of money actually expended in its behalf, and for its benefit. Believing, therefore, that the Government of Canada, in its official character, is as honorable as the members composing it are in their private relations, I appeal to its sense of justice with entire confidence. I feel, too, that the Government cannot hesitate, with a knowledge of the facts before it, with endorsements of my integrity from such distinguished men as United States Senators Honorable Reverdy Johnson and Honorable Alexander Ramsey, and from the Honorable Caleb Cushing (U. S. Attorney-General at the time the Treaty was concluded), to place credit in my sworn statements, and to refund the money I expended in its behalf, as a duty due alike to its own position and the justice of my cause.

I am, Sir,

Your obedient servant,

GEORGE W. BREGA.

[The original sworn to before a Commissioner, at Ottawa, July 3rd, 1867.]

The enclosures consist of:

1st. Affidavit of John W. Fowler, Esquire, as to Hon. Lewis T. Drummond's acceptances.

2nd. Letters from Senators Reverdy Johnson and Alexander Ramsey, and from Hon. Caleb Cushing, late United States Attorney-General.

* See correspondence with Mr. Drummond in former memorial.

Mr. Andrews' notes of hand, and Mr. Drummond's acknowledgement as to his having received Senator Douglas's letter, are on file in the Executive Council office, having been placed there in 1864, with the former memorial.

BRIEF ACCOMPANYING MEMORIAL.

In the matter of George W. Brega, a claimant for the refunding of certain moneys advanced by him to the recognized Agent of the Canadian Government, as such, and for services in connection with the Treaty of Reciprocal Free Trade between the Provinces of British North America and the United States,

As to whether the Order in Council, of 14th March, 1863, and the Address of Parliament of 25th June, 1864, should be equitably construed so as to extend to the relief of said claimant :

On the 25th June, 1864, an Address to the Governor General was passed by the Legislative Assembly, praying him "to recommend the payment of the balance due by the Government for certain expenses incurred in carrying out the Treaty of Reciprocal Free Trade between the Provinces and the United States, in accordance with an Order in Council passed on the 14th day of March, 1863." This Address was passed by a vote of 59 to 17.

The Order in Council referred to was based upon a report, which took the ground that Israel D. Andrews, having been recognized by the Government of Canada as its agent in connection with the Reciprocity Treaty, the Government was bound in equity to carry out in good faith the acts of its agent, and to repay moneys expended, and pay for services rendered in connection with the said Treaty, under the direction or sanction of the said agent. Certain expenses were stated to have been thus incurred; and they were directed to be paid, upon the principle of responsibility for the acts of the agent, and the ground that the honor of the Government could not permit individuals to suffer for services or moneys advanced in its behalf, at the request, solicitation or by direction of its recognized agent; and it was acknowledged that the authority of the said agent was not limited by any express terms or direction.

The rule, therefore, adopted by the Executive Council, and endorsed by the subsequent action of Parliament, was a recognition of the responsibility of the Government, morally and equitably, for the acts of its agents in the premises. The sum then found due was all that, at the time, the Government had any knowledge of; but the PRINCIPLE was not confined to any particular sum or especial individuals, and must equitably embrace all claims which are involved in the general rule adopted. To advance a contrary interpretation would be to assume that the Executive Council and Parliament adopted the general principle as a temporary expedient, simply with a view of favoring certain individuals, and not upon the broad grounds of equity and justice: and that, satisfied with paying these favored persons, justice drops her scales, and refuses to carry out the only legitimate, logical and equitable conclusion and application of the principle, and which alone excused any payments whatever. Such a position cannot be taken—it would be a reflection upon the honor of the Government. On the contrary, the Order in Council is plainly and unmistakably an endorsement of the principle laid down in the report which it adopted, and the Address of Parliament, and the subsequent appropriation are a part of this record. They must be construed as expressing the intention of the law-maker, that all sums equitably due in connection with the matter should be paid; the appropriation being, at the time, necessarily limited to the facts in possession of the Government. It was wholly a measure of equitable relief. The obvious intention was to pay all that was equitably due—not the selection of certain persons, either as a favor to them or yielding to their importunity, and excluding others having, at least, equally just claims. The Government presented all the facts then in its knowledge, but asked for the appropriation upon that general rule of equity which sought to pay for services in connection with the Treaty, because those services had been rendered, and not because the claims were held by particular individuals.

The memorials, affidavits and other papers, are in proof that the claim now submitted comes within the principle of the Order in Council of 14th March, 1863. A full explanation is given of the reasons which prevented the facts from being presented to the Govern-

ment at an earlier period; and the whole statement goes to show that there can be no additional claimants beyond the present one, and that the Government is at length put in possession of all the facts and history of the case.

The proofs presented may be thus summarized:—

1st. The unpaid notes of hand and acknowledgments of the recognized agent of the Canadian Government, in favor of the present claimant, dated June, 1855.

2nd. The acknowledgment of Hon. Lewis T. Drummond, as to his having been placed in possession of U. S. Senator Stephen A. Douglas's letter, which was written June, 1859, as evidence to be presented to the Canadian Government as to the services rendered by the present claimant, in connection with the passage of the Reciprocity Treaty.

3rd. The unpaid drafts of the said agent, in favor of the present claimant, dated July, 1859, drawn on Hon. Lewis T. Drummond, as attorney for the said agent, to receive the money due by the Canadian Government for expenses in connection with the Reciprocity Treaty, and which drafts were formally accepted by the said Lewis T. Drummond.

4th. The uncontradicted sworn statement of facts, and the internal evidence they bear of their truth.

5th. The endorsements by U. S. Senators, Hon. Reverdy Johnson, and Hon. Alexander Ramsey, and Hon. Caleb Cushing, late U. S. Attorney-General, as to the integrity of your memorialist.

Your memorialist prays that his case may be considered upon its equities, "by a recurrence to natural principles of justice"; and whilst he maintains that the intention of the law-maker to pay all the expenses in connection with the Treaty, incurred by or through the direction of the agent of the Government, not to pay particular individuals and none others, is incontrovertible, he submits the following authorities, among the many existing, for the application of the construction he asks:

"The intention of the legislator may be discovered by looking at the *causæ* which moved the legislature to enact the law."—*Dwarris*, 562.

"The cause and reason of the act (or, in other words, the mischief requiring a remedy), may either be collected from the statute itself, or discovered from circumstances extrinsic of the act."—*Ib.* 566.

"It is a rule, though provision special, if reason general, general acceptance."—*Ib.* 567.

"Every statute ought to be expounded, not according to its letter, but according to the meaning. The enlarged interpretation of a law, will penetrate the soul and spirit of a law, and reach the intent and meaning of the legislator. It is, then, a *lex legum*, a general rule, an universal maxim, that in all cases the design and intent shall prevail."—*Ib.* 563.

"A thing which is within the object, spirit and meaning of a statute, is as much within the statute as if it were within the letter."—*Zouch and Stowell*, *Plow 386*: 10 *Rep.* 101.

"A remedial act shall be so construed as most effectually to meet the beneficial end in view, and to prevent a failure of the remedy. Thus it is laid down, that a statute may be extended by construction to other cases within the same mischief, and occasion of the act, though not expressly within the words."—*Dwarris*, 614.

"A remedial statute shall be extended by equity to other persons besides those expressly named."—*Ib.* 617.

"The reason why a case not within the letter of a statute is sometimes held by an equitable construction, to be within the meaning of it is * * * that a case within the mischief must have been intended to be within the remedy of the act."—*Ib.* 616—1st *Just.* 24.

"It is by no means unusual in construing a remedial statute to extend the enacting words beyond their natural import and effect, in order to include cases within the same mischief."—*Ib.* 633.

It is not necessary to multiply these authorities: they uniformly express the same views, so well stated by Mr Wooddesson, in his explanation of the nature of equity jurisprudence, that "equity is a judicial interpretation of laws, which, pre-supposing the legislator to have intended what is just and right, pursues and effectuates that intention."

In appealing to the Minister of Justice to give effect to the principle involved in the Order in Council of 14th March, 1863, and the subsequent proceedings in Parliament, and which, of necessity, must admit the present claim, that great quality of equity is invoked, which given by Justinian and adopted by all authorities since, declares it to be "founded on natural justice, in honesty and right, and which properly arises *ex æquo et bono*."

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