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FIRST SESSION OF THE SEVENTH PARLIAMENT

OF THE

DOMINION OF CANADA.

SESSION 1891.



VOLUME XXIV.

OTTAWA:

Printed by BROWN CHAMBERLIN, Printer to the Queen's Most Excellent Majesty.

1891.

890957

See also Numerical List, page 4.

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SESSIONAL PAPERS
OF THE
PARLIAMENT OF CANADA.

FIRST SESSION, SEVENTH PARLIAMENT, 1891.

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CONTENTS OF VOLUME No. 1.

1. Public Accounts of Canada, for the fiscal year ended 30th June, 1890 ; presented to the House of Commons, 4th May, 1891, by Hon. G. E. Foster. Estimates for the year ending 30th June, 1892 ; presented 18th May, 1891. Supplementary Estimates for the year ending 30th June, 1891 ; presented 4th June, 1891. Supplementary Estimates, 1891-32 ; presented, 16th September, 1891. Further Supplementary Estimates for the year ending 30th June, 1892 ; presented 29th September, 1891. *Printed for both distribution and sessional papers.*
2. List of Shareholders in the Chartered Banks of the dominion of Canada, as on the 31st December, 1890. Presented to the House of Commons, 12th May, 1891, by Hon. G. E. Foster—
Printed for both distribution and sessional papers.

CONTENTS OF VOLUME No. 2.

3. Report of the Auditor General on Appropriation Accounts, for the year ended 30th June, 1890. Presented to the House of Commons, 4th May, 1891, by Hon. G. E. Foster—
Printed for both distribution and sessional papers.

CONTENTS OF VOLUME No. 3.

4. Tables of the Trade and Navigation of the dominion of Canada, for the fiscal year ended 30th June, 1890. Presented to the House of Commons, 5th May, 1891, by Hon. M. Bowell—
Printed for both distribution and sessional papers

CONTENTS OF VOLUME No. 4.

5. Report, Returns and Statistics of the Inland Revenues of the dominion of Canada, for the fiscal year ended 30th June, 1890. Presented to the House of Commons, 5th May, 1891, by Hon. J. Costigan. *Printed for both distribution and sessional papers.*
- 5a. Inspection of Weights, Measures and Gas, being a supplement to the report of the department of inland revenue, 1890. Presented to the House of Commons, 5th May, 1891, by Hon. J. Costigan—
Printed for both distribution and sessional papers.
- 5b. Report on Adulteration of Food, for the fiscal year ended 30th June, 1890. Presented to the House of Commons, 1st June, 1891, by Hon. J. Costigan—
Printed for both distribution and sessional papers.
6. Report of the Minister of Agriculture for the dominion of Canada, for the calendar year 1890. Presented to the House of Commons, 5th May, 1891, by Hon. John Haggart—
Printed for both distribution and sessional papers.

CONTENTS OF VOLUME No. 5.

- 6a. Report on Canadian Archives, 1891.....*Printed for both distribution and sessional papers.*
 6b. Report on Western Hemisphere Trade.....*Printed for both distribution and sessional papers.*
 6c. Reports of the Director and Officers of the Experimental Farms, for the year 1890. Presented to the House of Commons, 5th May, 1891, by Hon. J. Haggart—
Printed for both distribution and sessional papers.

CONTENTS OF VOLUME No. 6.

- 6d. First Annual Report of the Dairy Commissioner for the dominion of Canada for 1890. Presented to the House of Commons, 12th May, 1891, by Hon. J. Haggart—
Printed for both distribution and sessional papers.
 6e. Report of the High Commissioner for Canada, with Reports from Agents in the United Kingdom, for the year 1890. Presented to the House of Commons, 5th May, 1891, by Hon. J. Haggart—
Printed for both distribution and sessional papers.
 6f. Mortuary Statistics of the principal cities and towns of Canada for the year 1890—
Printed for both distribution and sessional papers.
 6g. Criminal Statistics for the year ended 30th September, 1890—
Printed for both distribution and sessional papers.
 6h. Report of the Honorary Commissioner, Mr. Adam Brown, representing Canada at the Jamaica Exhibition, 1891. Presented to the House of Commons, 26th June, 1891, by Hon. J. Haggart—
Printed for both distribution and sessional papers.

CONTENTS OF VOLUME No. 7.

7. Twenty-third Annual Report of the Department of Marine, for the fiscal year ended 30th June, 1890. Presented to the House of Commons, 4th May, 1891, by Hon. C. H. Tupper—
Printed for both distribution and sessional papers.
 7a. Report of the Chairman of the Board of Steamboat Inspection, etc., for calendar year ended 31st December, 1890. Presented to the House of Commons, 4th May, 1891, by Hon. C. H. Tupper—
Printed for both distribution and sessional papers.
 7b. Evidence on the Export Cattle Trade of Canada. Presented to the House of Commons, 4th May, 1891, by Hon. C. H. Tupper.....*Printed for both distribution and sessional papers.*
 7c. Report of Evidence relative to the Carrying of Deck Loads of Timber and Deals during the winter months. Presented to the House of Commons, 4th May, 1891, by Hon. C. H. Tupper—
Printed for both distribution and sessional papers.

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8. Annual Report of the Department of Fisheries for the year 1890. Presented to the House of Commons, 6th May, 1891, by Hon. C. H. Tupper....*Printed for both distribution and sessional papers.*
 8a. Fisheries Statements and Inspectors' Reports for the year 1890. Presented to the House of Commons, 4th June, 1891, by Hon. J. A. Chapleau..*Printed for both distribution and sessional papers.*

CONTENTS OF VOLUME No. 9.

- 9b. Correspondence relative to the Seizure of British Vessels in Behring Sea by United States Authorities in 1886-91.....*Printed for both distribution and sessional papers.*
 9c. Correspondence respecting the Seizure of the British schooner "Araunah," off Copper Island, by the Russian Authorities, 1888-90.....*Printed for both distribution and sessional papers.*

CONTENTS OF VOLUME No. 10.

9. Annual Report of the Minister of Public Works, for the fiscal year 1889-90, on the works under his control. Presented to the House of Commons, 4th May, 1891, by Sir Hector Langevin—
Printed for both distribution and sessional papers.

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- 10.** Annual Report of the Minister of Railways and Canals for the past fiscal year, from the 1st July, 1889, to 30th June, 1890, on the works under his control. Presented to the House of Commons, 5th May, 1891, by Sir John A. Macdonald. *Printed for both distribution and sessional papers.*
- 10a.** Canal Statistics for season of Navigation, 1890. Presented to the House of Commons, 4th June, 1891, by Hon. M. Bowell. *Printed for both distribution and sessional papers.*
- 10b.** Reports, Railway Statistics of Canada, and capital, traffic and working expenditure of the railways of the Dominion, 1890. Presented to the House of Commons, 24th June, 1891, by Hon. M. Bowell. *Printed for both distribution and sessional papers.*

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- 11.** Report of the Superintendent of Insurance for the year ending 31st December, 1890. Presented to the House of Commons, 10th September, 1891, by Hon. G. E. Foster—
Printed for both distribution and sessional papers.
- 11a.** Preliminary abstract of the business of Canadian Life Insurance Companies for the year ending 31st December, 1890. Presented to the House of Commons, 12th May, 1891, by Hon. G. E. Foster—
Printed for both distribution and sessional papers.
- 11b.** Abstract of statements of Insurance Companies in Canada, for the year ending 31st December, 1890. Presented to the House of Commons, 12th May, 1891, by Hon. G. E. Foster—
Printed for both distribution and sessional papers.
- 12.** Report of the Minister of Justice as to Penitentiaries in Canada, for the year ended 30th June, 1890. Presented to the House of Commons, 6th May, 1891, by Sir John Thompson—
Printed for both distribution and sessional papers.

CONTENTS OF VOLUME No. 13.

- 13.** Annual Report of the Department of Militia and Defence of the dominion of Canada, for the year ending 31st December, 1890. Presented to the House of Commons, 11th May, 1891, by Sir Adolphe Caron. *Printed for both distribution and sessional papers.*
- 14.** Report of the Secretary of State, for the year ended 31st December, 1890. Presented to the House of Commons, 5th May, 1891, by Hon. J. A. Chapleau—
Printed for both distribution and sessional papers.
- 14a.** The Civil Service List of Canada, 1890. Presented to the House of Commons, 5th May, 1891, by Hon. J. A. Chapleau. *Printed for both distribution and sessional papers.*
- 14b.** Report of the Board of Examiners for the civil service of Canada, for the year ended 31st December, 1890. Presented to the House of Commons, 5th May, 1891, by Hon. J. A. Chapleau—
Printed for both distribution and sessional papers.
- 14c.** Report of the Department of Public Printing and Stationery for the dominion of Canada, for the year ending 30th June, 1890, with a partial report for services during six months ending 31st December, 1890. Presented to the House of Commons, 4th June, 1891, by Hon. J. A. Chapleau—
Printed for both distribution and sessional papers.
- 15.** Report of the Joint Librarians of Parliament on the state of the library of parliament. Presented to the House of Commons, 30th April, 1891, by Hon. Mr. Speaker. *Printed for sessional papers only.*

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- 16.** Report of the Postmaster General, for the year ended 30th June, 1890. Presented to the House of Commons, 4th May, 1891, by Hon. J. Haggart. *Printed for both distribution and sessional papers.*
- 17.** Annual Report of the Department of the Interior, for the year 1890. Presented to the House of Commons, 4th May, 1891, by Hon. E. Dewdney—
Printed for both distribution and sessional papers.
- 17a.** Summary Report of the Geological Survey Department, for the year 1890. Presented to the House of Commons, 4th May, 1891, by Hon. E. Dewdney—
Printed for both distribution and sessional papers.

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18. Annual Report of the Department of Indian Affairs, for the year ended 31st December, 1890. Presented to the House of Commons, 4th May, 1891, by Hon. E. Dewdney.—
Printed for both distribution and sessional papers.
19. Report of the Commissioner of the North-West Mounted Police, 1890. Presented to the House of Commons, 18th May, 1891, by Sir John A. Macdonald.—
Printed for both distribution and sessional papers.
20. Statement of Governor General's Warrants issued since the closing of Parliament, and of the expenditure made on them, in accordance with the Consolidated Revenue and Audit Act. Presented to the House of Commons, 4th May, 1891, by Hon. G. E. Foster....*Printed for distribution only.*
- 20a. Return to an order of the House of Commons, dated 18th May, 1891, for a return showing details of the following items of expenditure which appear in the statement of Governor General's warrants issued since the closing of the last parliament: July 10th, 1890, franchise act, \$4,000; March 26th, 1891, Kingston graving dock, \$6,006.14; August 30th, 1890, new dredging plant, \$5,991.91; March 26th, 1891, breakwater at Southampton, \$38,022.39; April 28th, 1891, cost of litigated matters, \$10,468.79; January 31st, 1891, seed grain to settlers in N.W.T., \$2,298.18. Presented to the House of Commons, 22nd May, 1891.—*Mr. Mulock*.....*Printed for distribution only.*
21. Statement of expenditure on account of Miscellaneous Unforeseen Expenses from 1st July, 1890, to 30th April, 1891. Presented to the House of Commons, 6th May, 1891, by Sir John A. Macdonald.....*Printed for distribution only.*
22. Return to an order of the House of Commons, dated 6th May, 1891, for a return of the receipts and expenditures in detail, chargeable to the consolidated fund, from the 1st day of May, 1890, to 1st day of May, 1891; and comparative statements from 1st July, 1889, to 1st May, 1890. Presented to the House of Commons, 12th May, 1891.—*Sir R. Cartwright*.....*Printed for distribution only.*
- 22a. Return to an order of the House of Commons, dated 15th May, 1891, for a return giving comparative statement of receipts and expenditures from 1st July, 1890, to 10th May, 1891, and from 1st July, 1889, to 10th May, 1890. Presented to the House of Commons, 18th May, 1891.—*Sir R. Cartwright*.....*Printed for distribution only.*
- 22b. Statement of receipts and expenditures, in detail, chargeable to the consolidated fund, from 1st July, 1889, to 20th May, 1890; and like statement from 1st July, 1890, to 20th May, 1891. Presented to the House of Commons, 22nd May, 1891, by Hon. G. E. Foster.....*Printed for distribution only.*
- 22c. Statement of receipts and expenditures, in detail, chargeable to the consolidated fund, from 1st July, 1889, to 31st May, 1890; and like statement from 1st July, 1890, to 31st May, 1891. Presented to the House of Commons, 1st June, 1891, by Hon. G. E. Foster.....*Printed for distribution only.*
- 22d. Statement of receipts and expenditures, in detail, chargeable to the consolidated fund, from 1st July, 1889, to the 10th June, 1890; and like statement from 1st July, 1890, to 10th June, 1891. Presented to the House of Commons, 17th June, 1891, by Hon. G. E. Foster.—
Printed for distribution only.

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23. Statement of all superannuations and retiring allowances in the civil service, giving the name and rank of each person superannuated or retired, his salary, age and length of service, his allowance and cause of retirement, whether the vacancy has been filled by promotion or new appointment, etc., for year ended 31st December, 1890. Presented to the House of Commons, 11th May, 1891, by Hon. G. E. Foster.....*Printed for sessional papers only.*
24. List of public officers to whom commissions have issued under chapter 19 of the Revised Statutes of Canada, during the year 1890. Presented to the House of Commons, 12th May, 1891, by Hon. J. A. Chapleau.....*Printed in No. 14.*
25. Return (*in part*) under resolution of the House of Commons, passed on the 20th February, 1882, on all subjects affecting the Canadian Pacific Railway, respecting details as to: 1. Selection of the route. 2. The progress of the work. 3. The selection or reservation of land. 4. The payment of moneys. 5. The laying out of branches. 6. The progress thereon. 7. The rates of tolls for passengers and freight. 8. The particulars required by the Consolidated Railway Act and amendments thereto, up to the end of the previous fiscal year. 9. Like particulars up to the latest practicable date before the presentation of the return. 10. Copies of all orders in council and all

- correspondence between the government and the railway company, or any member or officer of either, relating to the affairs of the company. Presented to the House of Commons, 14th May, 1891, by Hon. E. Dewdney *Printed for sessional papers only.*
- 25a.** List of lands sold by the Canadian Pacific Railway Company, from the 1st October, 1889, to 1st October, 1890. Presented to the House of Commons, 27th May, 1891, by Hon. E. Dewdney—
..... *Printed for sessional papers only.*
- 26.** Return to an order of the House of Commons, dated 14th May, 1891, for an abstract copy or copies of the cargoes carried by the steamships subsidized to run between the maritime provinces and the West Indies on each voyage during the present year 1891; showing the character and value of the cargoes carried and the port or ports of lading and discharge of such cargoes, with an abstract of any other information given in such manifest; and also showing number of trips made by the steamers subsidized to carry on the steam service between the maritime provinces and the West India ports, during the year 1890; the dates of such trips, amount paid for each trip, the person or company carrying out said service for the present year, and whether any contract has been entered into for the service this year, and what rates are being paid therefor and to whom. Presented to the House of Commons, 18th May, 1891—*Mr. Davies*..... *Printed for sessional papers only.*
- 26a.** Return to an address of the House of Commons, to his excellency the Governor General of the 27th May, 1891, for: 1. Copies of all correspondence and reports to council on the subject of payment of subsidies to the Canadian, West Indian and South American Steamship Company, and to Messrs. Pickford and Black, or either of them, and for copies of all contracts between the Canadian, West Indian and South American Steamship Company (Limited), and Messrs. Pickford and Black, or either of them, and the government, for the steam service between Canada and the West Indies, entered into during the year 1890. 2. Also the names of persons or companies to whom the subsidies for the steam service between St. John, N.B., and the West Indies were paid, previously to the execution of the contract by the Canadian, West Indian and South American Steamship Company, and the amounts so paid, and dates. Also the amount paid, and dates when paid to such steamship company, after entering into the contract. Presented to the House of Commons, 13th July, 1891—*Mr. Davies* *Printed for sessional papers only.*
- 27.** Return to an Order of the House of Commons, dated the 6th May, 1891, for a return giving the date of the declarations in every riding during the recent general election. If adjournments or enlargements were made, in any case, from the time fixed at the nominations, stating where, when, how often and for what reason, and giving the name and address of the returning officer where such occurred; also giving the name, occupation and post office address of every returning officer; showing the date of return by returning officer to the clerk of the crown in chancery, and the date of receipt of each by the clerk of the crown in chancery; together with the name of the electoral district and the member elected thereto, and the date of publication of his return in the *Canada Gazette*. Also copies of all letters written by or on behalf of any member of the government to any member elect or to any other person or persons suggesting that any returning officer be asked to delay making his return to the clerk of the crown in chancery. Presented to the House of Commons, 19th May, 1891.—*Mr. Landerkin*..... *Printed for sessional papers only.*
- 27a.** Return of the Seventh General Election for the House of Commons of Canada, by Samuel E. St. O. Chapleau, Esq., Clerk of the Crown in Chancery for Canada. Presented to the House of Commons, 19th May, 1891, by Hon. J. A. Chapleau. *Printed for both distribution and sessional papers.*
- 28.** Detailed statement of all bonds and securities registered in the department of the secretary of state of Canada, since last return, 1890, submitted to the parliament of Canada under section 23, chapter 19, of the Revised Statutes of Canada. Presented to the House of Commons, 20th May, 1891, by Hon. J. A. Chapleau..... *Not printed.*
- 29.** Return to an order of the House of Commons, dated 11th May, 1891, for a return showing a detailed account of all expenses incurred in connection with an investigation held into the conduct of the indian agent at Sutton West. Presented to the House of Commons, 21st May, 1891.—*Mr. Mulock* *Not printed.*
- 29a.** Return to an order of the House of Commons, dated 18th May, 1891, for a list and prices paid for all articles purchased for the indians of the counties of Guysboro' and Antigonish, including in said list any cattle purchased as well as farming implements, during the last three years. Also statement of prices realized from sale of cattle or other articles purchased for the use of the indians in said counties. Also statement in full of articles belonging to the department of the interior in said counties for the use of the said indians. Presented to the House of Commons, 27th May, 1891.—*Mr. Fraser*..... *Not printed.*

- 30.** Return to an address of the House of Commons to his excellency the Governor General, dated 11th May, 1891, for a return of: 1. Copies of all correspondence and telegrams between the department of militia and defence, or any officer thereof, and the commander of "C" battery, having reference to sending a detachment of men under his command to Wellington on the 4th or 5th day of August last, ostensibly to aid the civil authorities of that district. 2. Also copies of the requisition served on the said commanding officer, invoking military aid at Wellington, together with the names of the magistrates who signed the requisition, also the distance from Wellington at which said magistrates reside. 3. Also copies of the reports of the commanding officer, confidential or otherwise, as to the necessity there was for the military occupation of Wellington, and for their continuance there, until they were recalled. 4. Also of all telegraphic or other correspondence between the department of militia and defence, or any officer of the government of Canada, and the provincial government of British Columbia, or with any officer thereof, if any, or with any other person, in reference to sending the said military force to Wellington. 5. Also a detailed statement of all moneys disbursed by the government of Canada, or by any department thereof, either as regimental pay, or for active service allowance, either to the officers and men of "C" battery, or both officers and men of the British Columbia Garrison Artillery, while on service at Wellington, or for their maintenance while there, or for their transportation to and from Wellington. 6. Also copies of all militia general and special orders issued by the militia department for the regulation and guidance of the officers of "C" battery since its establishment in British Columbia. Presented to the House of Commons, 22nd May, 1891.—*Mr. Gordon*—
Not printed.
- 30a.** Return to an order of the House of Commons dated 3rd June, 1891, for a return of all reports from the deputy adjutant general of military district No. 11 to the minister of militia, since January, 1888: 1. In regard to "C" battery barracks. 2. In regard to drill hall in Victoria. 3. In regard to removal of magazine from Beacon Hill Park. 4. In regard to condition of guns, stores, gun platforms, etc. Also copies of all correspondence between the deputy adjutant general of military district No. 11 and the minister of militia, on the same subjects, since the same date. Presented to the House of Commons, 1st July, 1891.—*Mr. Prior*.....*Not printed.*
- 31.** Return to an address of the House of Commons, to his excellency the Governor General, dated 14th May, 1891, for a return of all petitions addressed to the government, praying for the analysis of intoxicating liquor manufactured or offered for sale, by wholesale or retail, in the dominion of Canada. Presented to the House of Commons, 22nd May, 1891.—*Mr. Curran*.*Not printed.*
- 32.** Return to an order of the House of Commons, dated 14th May, 1891, for copies of correspondence, papers, and all documents respecting steps taken by the government during last session, or since that time, to prevent American cheese being shipped through or from Canadian ports, and branded as Canadian; also copies of the instructions now given to the proper authorities or preventive officers on the subject. Presented to the House of Commons, 26th May, 1891.—*Mr. Marshall*—
Not printed.
- 33.** Return to an order of the House of Commons, dated 6th May, 1891, for a return in the form used in the statements usually published in the *Gazette* of the exports and imports from 1st day of May, 1890, to 1st day of May, 1891, distinguishing the products of Canada and those of other countries; and comparative statements from 1st July, 1889, to 1st May, 1890. Presented to the House of Commons, 27th May, 1891.—*Sir R. Cartwright*.*Printed for distribution only.*
- 34.** Copies of papers relating to the sale of the Carleton Branch Railway to the city of St. John. Presented to the House of Commons, 29th May, 1891, by Hon. G. E. Foster*Not printed.*
- 34a.** Return to an address of the House of Commons to his excellency the Governor General, dated 18th June, 1891, for copies of all orders in council, correspondence, papers, reports and documents in relation to the returning of the debentures of the North Shore Railway Company. Presented to the House of Commons, 10th August, 1891.—*Mr. Langelier*.....*Printed for sessional papers only.*
- 34b.** Return to an order of the House of Commons, dated 20th July, 1891, for all papers in reference to the claim of Hugh Munroe, of River John, Pictou County, for damages for injuries caused to his farm by the building of the Short Line Railway. Presented to the House of Commons, 10th August, 1891.—*Mr. Fraser*.....*Not printed.*
- 34c.** Return to an address of the House of Commons to his excellency the Governor General, dated 20th July, 1891, for copies of all correspondence, petitions and memorials relating to the construction of a line of railway by the Inverness and Richmond Railway Company (Limited), in the county of Inverness, up to date. Presented to the House of Commons, 10th August, 1891. *Mr. Cameron* (*Inverness*).....*Not printed.*

- 34d.** Return to an address of the House of Commons to his excellency the Governor General, dated 20th July, 1891, for copies of all petitions, letters or communications whatsoever received by the government from any of the municipalities of the county of Napierville, or from any person in the said county, and of any answers made by the government thereto, up to the 5th March last, in relation to the granting of a subsidy in aid of the construction of a railway between the village of Napierville and the village of St. Rémi. Presented to the House of Commons, 10th August, 1891.—*Mr. Monet*..... *Not printed.*
- 34e.** Return to an order of the House of Commons, dated the 18th June, 1891, for a return showing :
 1. The names of the several railways in the dominion to which dominion aid has been granted, except the Canadian Pacific main line 2. The province within which the said railway, in whole or in part, is located, and if located in two or more provinces, the number of miles in each. 3. The county or counties through which the said lines run in each province. 4. The amount of money paid to each up to the 1st January, 1891. 5. The railways built in the dominion by the dominion since confederation, excepting the main line of the Intercolonial and main line of the Canadian Pacific. 6. The province within which built. 7. The entire cost of each line built or assisted by the dominion, in each province, including equipment. 8. The entire sum spent up to 1st January last, on the construction of dominion roads in each province, excepting the Intercolonial main line and Canadian Pacific main line. Presented to the House of Commons, 14th September, 1891.—*Mr. McMullen*..... *Printed for sessional papers only.*
- 35.** Report of the Commissioner, Dominion Police, for the year 1890, under Revised Statutes of Canada, chapter 184, section 5. Presented to the House of Commons, 1st June, 1891, by Sir John Thompson..... *Not printed.*
- 36.** Return to an address of the House of Commons to his excellency the Governor General, dated 12th May, 1891, for copies of all orders in council, letters, correspondence, and documents of every nature respecting the resignation of James Thurber, Esq., lieutenant-colonel of the sedentary militia, in the county of Lotbinière; the appointment of his son, Mr. William Thurber, as lighthouse keeper in the parish of St. Croix; and the refusal of the government to grant to the said James Thurber, Esq., the amount claimed by him as his superannuation allowance. Presented to the House of Commons, 1st June, 1891.—*Mr. Rinfret*..... *Not printed.*
- 36a.** Return to an order of the House of Commons, dated 11th May, 1891, for all correspondence and papers relating to the resignations and re-appointments to office of the following parties: Samuel Genest, John Cosgrove and Charles Leduc. Presented to the House of Commons, 4th June, 1891.—*Mr. Devlin*..... *Not printed.*
- 36b.** Return to an order of the House of Commons, dated 18th June, 1891, for a return of all letters, correspondence and papers relating to the cause of the resignation and removal of William Laidlow, of Arthur, from the North-West Mounted Police, and all papers and correspondence relating to his application for compensation for the loss of his thumb while in the service; also the award of compensation paid him, if any. Presented to the House of Commons, 6th July, 1891.—*Mr. McMullen*..... *Not printed.*
- 37.** Return to an order of the House of Commons, dated 12th May, 1891, for a return showing how many yards of cotton sail duck have been imported at Halifax, Nova Scotia, from the 30th June, 1889, to 30th June, 1890, and from 30th June, 1890, to 30th December, 1890, and the value of such importation respectively. Presented to the House of Commons, 2nd June, 1891.—*Mr. White (Shelburne)*..... *Not printed.*

CONTENTS OF VOLUME No. 17.

- 38.** Papers relating to the extension and development of trade between the United States and the dominion of Canada, including the colony of Newfoundland. Presented to the House of Commons, 3rd June, 1891, by Sir John Thompson..... *Printed for both distribution and sessional papers.*
- 38a.** Further papers relating to the extension and development of trade between the United States and dominion of Canada, including the colony of Newfoundland. Presented to the House of Commons, 22nd June, 1891, by Sir John Thompson. *Printed for both distribution and sessional papers.*
- 38b.** Copy of a report of the honourable the privy council of the 4th November, 1890, relative to the proposal made by the government of Canada to the governors of British West India Islands and of British Guiana for the extension of trade, together with correspondence, etc., referring to the same subject. Presented to the House of Commons, 29th July, 1891, by Hon. G. E. Foster—
Printed for both distribution and sessional papers.

- 38c.** Correspondence and telegrams respecting the Spanish American Treaty. Presented to the House of Commons, 22nd September, 1891, by Hon. G. E. Foster. *Printed for sessional papers only.*
- 39.** Return to an order of the House of Commons, dated 27th May, 1891, for copies of the report of the enquiry held by J. B. Caouette, in 1890, respecting the abstraction, from the post office at Isle Verte, of a newspaper addressed to a resident of that parish ; of all letters from the post office department to the said Caouette, and replies thereto, and of any report made by the said Caouette ; also of all official correspondence in relation to the said enquiry. Presented to the House of Commons, 16th June, 1891.—*Mr. Amyot* *Not printed.*
- 39a.** Return to an order of the House of Commons, dated 18th May, 1891, for copies of all letters, petitions and memorials relating to and praying for the construction of a suitable post office in the town of Buckingham, county of Ottawa. Presented to the House of Commons, 16th June, 1891.—*Mr. Devlin* *Not printed.*
- 39b.** Return to an address of the House of Commons to his excellency the Governor General, dated 27th May, 1891, for copies of all petitions, memorials, reports and orders in council in reference to the establishment of a post office at Campbellton, in the county of Inverness, Nova Scotia. Presented to the House of Commons, 19th June, 1891.—*Mr. Laurier* *Not printed.*
- 39c.** Return to an order of the House of Commons, dated 5th May, 1891, for a return showing the contingent expenses of the several salaried postmasters of the dominion for the fiscal years 1888, 1889 and 1890. Presented to the House of Commons, 24th July, 1891.—*Mr. McMullen*—
Printed for sessional papers only.
- 39d.** Return to an order of the House of Commons, dated 15th May, 1891, for a return showing the amount deposited in each of the post office and dominion savings banks in the dominion on the 30th June, 1891. Presented to the House of Commons, 12th August, 1891.—*Mr. McMullen*—
Not printed.
- 39e.** Return to an order of the House of Commons, dated 20th July, 1891, for copies of correspondence between the proprietor or proprietors of the newspaper *Le Canada*, published at Ottawa, and any member of the government ; also of any correspondence between any member of the government and any other person in relation to the suspension of the publication in the said newspaper *Le Canada*, of the table showing the arrival and departure of mails at the Ottawa post office. Presented to the House of Commons, 12th August, 1891.—*Mr. Beauvoeil*. *Not printed.*
- 39f.** Return to an order of the House of Commons, dated 18th May, 1891, for copies of all letters, correspondence and petitions relating to the establishment of a post office in the township of Lowe, county of Ottawa ; also petitions, memorials and documents complaining of the mail service between Ste. Emile de Suffolk and St. André Avelin, in the county of Ottawa. Presented to the House of Commons, 17th August, 1891.—*Mr. Devlin* *Not printed.*
- 40.** Return to an order of the House of Commons, dated 5th May, 1891, for copies of the tenders asked for to construct a graving dock at Kingston ; the tenders received ; the reports and calculations made by the engineers of the department of public works made and based on these tenders ; the contract which has been entered into ; the reports of the engineers which may have been made on the carrying out of the works ; or the changes which may have been made in them ; and also a statement of the sums paid out to the contractors up to date. Presented to the House of Commons, 4th June, 1891.—*Mr. Guay* *Not printed.*
- 40a.** Return to an order of the House of Commons, dated 8th July, 1891, for copies of the tenders received and accepted for the construction of a caisson in connection with the Esquimalt graving dock ; the report of Mr. H. F. Perley in this connection ; and all other correspondence referring to this contract. Presented to the House of Commons, 4th August, 1891.—*Mr. Tarte* *Not printed.*
- 40b.** Papers respecting the Kingston graving dock. Presented to the House of Commons, 6th July, 1891, by Sir Hector Langevin *Not printed.*
- 40c.** Return to an address of the House of Commons to his excellency the Governor General, dated 1st July, 1891, for : 1. Copy of original plan and also of alteration made to Kingston dry dock, showing the additional excavations, crib work, extra masonry and additional iron works in caissons, together with the quantities of each class of extra work paid or undertaken to be paid for, and the rates of payment for the said extra work. 2. Copy of the order in council, dated 5th July, 1890, concerning the contract for the building of said dry dock. Presented to the House of Commons, 19th August, 1891.—*Mr. Amyot* *Not printed.*
- 40d.** Return to an order of the House of Commons, dated 3rd August, 1891, for copies of all petitions, correspondence, reports of surveys and any other documents relating to the construction of a dry

- dock at the town of Amherstburg. Presented to the House of Commons, 20th August, 1891.—*Mr. Allan* *Not printed.*
41. Return to an order of the House of Commons, dated 14th May, 1891, for a return giving the report of Mr. J. R. Arnoldi, engineer of the mechanical department of public works, to the special committee on ballot boxes last session. Presented to the House of Commons, 4th June, 1891.—*Mr. Landerkin* *Printed for sessional papers only.*
42. Return to an order of the House of Commons, dated 11th May, 1891, for a return of all papers, correspondence and other documents relating to the dredging on the bar of the Kaministiquia River, Thunder Bay, since July, 1890, including the advertisement, tenders received and contract for such dredging; also engineer's report to the department, showing what progress has been made in the work up to the 1st of December last; also statement showing the amounts paid on account of such work, to whom paid, dates and amounts of such payments. Presented to the House of Commons, 4th June, 1891.—*Mr. Campbell* *Not printed.*
43. Return to an order of the House of Commons, dated 5th May, 1891, for copy of the report of H. F. Perley, Esq., chief engineer of the public works department, respecting the causes of the flooding by the waters of the Richelieu River, of the lands of the riparian owners, in the counties of Iberville, St. John and Missisquoi. Presented to the House of Commons, 4th June, 1891.—*Mr. Béchard* *Not printed.*
- 43a. Return to an order of the House of Commons, dated 18th June, 1891, for copies of all correspondence, letters, reports and documents of every description, respecting the deepening of the river and the lifting and removal of boulders from the batture of St. Jean Deschaillons. Presented to the House of Commons, 22nd July, 1891.—*Mr. Rinfret* *Not printed.*
- 43b. Return to an order of the House of Commons, dated 13th July, 1891, for copies of reports of engineers as to improvements in the navigation of the Grand River. Presented to the House of Commons, 4th August, 1891.—*Mr. Montague* *Not printed.*
- 43c. Supplementary return to an address of the Senate to his excellency the Governor General, dated 21st January, 1890, for copies of all reports and other communications in reference to the deposit of sawdust, slabs and other offensive material in the Ottawa and other rivers of the dominion, together with a letter from the deputy minister of fisheries relative thereto. Presented to the Senate, 19th August, 1891.—*Hon. Mr. Clemow* *Printed for sessional papers only.*
- 43d. Return to an order of the House of Commons, dated 3rd August, 1891, for copies of petitions, correspondence, etc., relating to reconstruction, by private parties, of the Caledonia Dam, across the Grand River. Presented to the House of Commons, 14th September, 1891.—*Mr. Montague*—
Not printed.
44. Return to an order of the House of Commons, dated 15th May, 1891, for copies of all letters, communications, and reports in the possession of the government, relating to the fixing of a standard of time and the legalization thereof. Presented to the House of Commons, 4th June, 1891.—*Mr. Kirkpatrick* *Printed for both distribution and sessional papers.*
45. Return to an order of the House of Commons, dated 13th May, 1891, for copies of all letters and correspondence between the government or any member thereof, or any public department, and Mr. Solyme Forgues, of St. Michel de Bellechasse, returning officer, in relation to the last dominion election in the electoral district of Bellechasse. Presented to the House of Commons, 4th June, 1891.—*Mr. Amyot* *Not printed.*
46. Return to an order of the House of Commons, dated 18th May, 1891, for a return showing what amount of money was expended in repairing wharf at Big Bay, in the township of Keppel, North Grey, during the summer of 1890; whether the work was let by tender or private contract; who performed the work; who acted as inspector, and what compensation did the inspector receive. Presented to the House of Commons, 4th June, 1891.—*Mr. Somerville* *Not printed.*
47. Return to an order of the House of Commons, dated 27th May, 1891, for a return showing the number of bushels of potatoes exported from Canada from 1st October, 1890, to 1st May, 1891, and the place to which exported. Presented to the House of Commons, 6th June, 1891.—*Mr. McMullen*—
Printed for sessional papers only.
48. Return to an order of the House of Commons, dated 3rd June, 1891, for a return of all correspondence between all persons and the department of marine and fisheries, recommending or with reference to a reward given to Captain Peterson of the American schooner "Seigfried," for his services in rescuing the captain and crew of the schooner "Blizzard," of Lunenburg, in October last. Presented to the House of Commons, 16th June, 1891.—*Mr. Flint* *Not printed.*

49. Return to an order of the House of Commons, dated 3rd June, 1891, for correspondence with the department of marine respecting presentation of binocular glasses to the volunteers rescuing the crew of the barqué "Medmerly," lost on Ray's Island, Pictou County, in November last past. Presented to the House of Commons, 16th June, 1891.—*Mr. Fraser*..... *Not printed.*
50. Return to an order of the House of Commons, dated 18th May, 1891, for copy of all correspondence, papers and reports, in the possession of the government, relating to the locality for holding the camp of militia district No. 1, for the years 1890 and 1891. Presented to the House of Commons, 16th June, 1891.—*Mr. Hyman*..... *Not printed.*
51. Return to an address of the House of Commons to his excellency the Governor General, dated 5th May, 1891, for copies of all correspondence, petitions, memorials and any other documents submitted to the privy council, in connection with the abolition of the official use of the French language in the province of Manitoba by the legislature of that province; also copies of reports to, or orders in council thereon; also copies of the act or acts relating thereto. Presented to the House of Commons, 18th June, 1891.—*Mr. LaRivière*..... *Printed for both distribution and sessional papers.*
52. Return to an address of the House of Commons to his excellency the Governor General, dated 5th May, 1891, for copies of the order in council of date the 10th May, 1888, granting a subsidy of \$12,500 per annum to Mr. Julien Chabot, for the use of the steamboat "Admiral," between Dalhousie and Gaspé, in connection with the Intercolonial Railway; and also of all other orders in council which may have been passed afterwards in respect to the same steamboat. Presented to the House of Commons, 19th June, 1891.—*Mr. Guay*..... *Not printed.*
- 52a. Return to an order of the House of Commons, dated 5th May, 1891, for copies of the contract with the owners or owner, or the party in possession of the steamboat "Admiral," made by the government in consequence of an order in council bearing date the 10th May, 1888; also of the contracts, deeds or transfers which may have been executed or notified to the government, since the said date of the 10th of May, 1888; also a statement of the sums paid out for the use of the said steamboat; the names of the persons to whom these sums have been paid; and the date of the payments and of the receipts which have been given therefor. Presented to the House of Commons, 24th June, 1891.—*Mr. Guay*..... *Not printed.*
- 52b. Return to an address of the House of Commons to his excellency the Governor General, dated 13th July, 1891, for copies of any order or orders in council, adopted between the years 1883 and 1888, in relation to the steamer "Admiral" and the service performed by the said steamer between Dalhousie and Gaspé or other points, in connection with the Intercolonial Railway. Presented to the House of Commons, 10th August, 1891.—*Mr. Tarte*..... *Not printed.*
- 52c. Return to an address of the House of Commons to his excellency the Governor General, dated 13th July, 1891, for copies of the contract or contracts between the owners or owner or person in possession of the steamer "Admiral" and the government, between the years 1883 and 1888; also copies of all deeds of transfer, etc., filed with the government, in respect of the said steamer; also a statement of all sums paid during the said period of time for the service of the said steamer, with the names of the persons to whom the said sums were paid and the dates of said payments. Presented to the House of Commons, 10th August, 1891.—*Mr. Tarte*..... *Not printed.*
53. Return to an order of the House of Commons, dated 6th May, 1891, for a return showing the cost of construction of the several elevators built on the Intercolonial Railway and branches; showing where erected and the capacity of each; the date of erection, and the quantity of grain that passed through each of them, each year, since their completion. Presented to the House of Commons, 19th June, 1891.—*Mr. McMullen*..... *Not printed.*
- 53a. Return to an order of the House of Commons, dated 13th May, 1891, for copies of all letters, documents, etc., between the officials of the Intercolonial Railway at Moncton and the department of railways in relation to the accident at St. Joseph de Lévis, on the 18th December, 1890. Presented to the House of Commons, 19th June, 1891.—*Mr. Carroll*..... *Not printed.*
- 53b. Return to an order of the House of Commons, dated 1st July, 1891, for all correspondence, telegrams, letters, reports and other papers relating to the proposed "additional property accommodation" of Intercolonial Railway at St. John, N.B. Presented to the House of Commons, 12th August, 1891.—*Mr. Davies*..... *Not printed.*
- 53c. Return to an order of the House of Commons, dated 8th July, 1891, for copies of all paper writings, documents, depositions, etc., respecting or in connection with the enquiry held at St. Flavie, on the line of the Intercolonial Railway, into the conduct of Mr. Hormidas Ouillet, superintendent

of the workshops of the said Intercolonial Railway, as well as in relation to any other employees. Presented to the House of Commons, 26th September, 1891.—*Mr. Choquette*.....*Not printed.*

- 54.** Return to an order of the House of Commons, dated 11th May, 1891, for : 1. A statement of all fishing licenses granted in 1890, in the following counties : Berthier, Maskinongé, St. Maurice, Champlain, Nicolet, Yamaska and Richelieu, showing the names of those who obtained such licenses, the amount paid by each of them and the date of each payment. 2. A statement of the quantity and value of the several kinds of fish taken by the said license-holders, according to the reports of the fishery overseers for the said counties. 3. Copies of all instructions sent to the fishery overseers of the said several counties in 1890 and 1891, up to date. 4. Copies of all letters, petitions and complaints received in relation to this subject during the years 1890 and 1891, up to this date, and of all replies made thereto. 5. For a statement of the salaries of the fishery overseers of the said counties, and of all other costs and expenditure incurred by the government in connection with the fisheries of the counties aforesaid, during the year 1890. Presented to the House of Commons, 22nd June, 1891.....*Not printed.*
- 54a.** Return to an order of the House of Commons, dated 3rd June, 1891, for a return showing the names of all persons in the county of Queen's, Nova Scotia, to whom fishing bounties have been paid during the last five years, with the amount paid each, and the dates of payment ; the amount still unpaid, with the names of the persons to whom such bounties are still due. Presented to the House of Commons, 23rd June, 1891.—*Mr. Forbes*.....*Not printed.*
- 54b.** Return to an order of the House of Commons, dated 18th May, 1891, for a return of the names of all persons in the county of Guysboro' to whom fishing bounties have been paid during the last three years, with the amount paid each, the amount still unpaid with the names of the persons to whom such bounties are still due. Presented to the House of Commons, 23rd June, 1891.—*Mr. Fraser*—*Not printed.*
- 54c.** Return to an order of the House of Commons, dated 27th May, 1891, for a return showing the amount paid for the supplies required by the crews of the several government vessels engaged in the fishery protection service, in the province of Ontario, for the fiscal year ending 30th June, 1890, together with the names of parties from whom purchases were made, and the prices paid. Presented to the House of Commons, 24th June, 1891.—*Mr. Somerville*..... *Not printed.*
- 54d.** Return to an order of the House of Commons, dated 3rd June, 1891, for a return of papers, correspondence, reports and other documents in the possession of the government relating to the subject of the herring fisheries of the Bay of Fundy and its adjacent waters during the past year, including the report of the conference of fishery officers held at Ottawa on the subject. Presented to the House of Commons, 30th June, 1891.—*Mr. Bowers*..... *Not printed.*
- 54e.** Return to an order of the House of Commons, dated 13th May, 1891, for a return of the costs and expenses of adjusting the amounts claimed for fishery bounties and of preparing and distributing the fishery bounty cheques in each year since 1883, and also the names of the persons authorized to distribute the bounty cheques in the province of Nova Scotia during the years 1889, 1890 and 1891. Presented to the House of Commons, 16th July, 1891.—*Mr. Flint*—
Printed for sessional papers only.
- 54f.** Return to an order of the House of Commons, dated 13th May, 1891, for a return giving the names of all persons in the county of Guysboro' fined for violation of the fishery laws, since the 1st day of January, 1890 ; the amount of each fine and costs ; the sum collected of each ; the names of the parties whose fines have been remitted, with the reason for such remission ; the names of parties in said county against whom fines are still outstanding, with the amount of each and costs. Presented to the House of Commons, 22nd June, 1891.—*Mr. Fraser*.....*Not printed.*
- 54g.** Return to an address of the House of Commons to his excellency the Governor General, dated 15th May, 1891, for a return of all papers, letters and documents in any way whatever relating to the dispensing with the services of J. R. Graham, of Fenelon Falls, as fishery inspector or overseer within the county of Victoria, and of all communications with or representations to the government, or any member thereof, or any officer or clerk in the department of marine and fisheries, relating to the said J. R. Graham and the performance of his duties prior to dispensing with his services ; and of all new rules or regulations (if any) for the appointment of fishery inspectors in said county and the performance of their duties. Presented to the House of Commons, 3rd August, 1891.—*Mr. Barron*.....*Not printed.*
- 54h.** Return to an address of the Senate to his excellency the Governor General, dated 30th April, 1890, for copies of all departmental orders relating to the fisheries of the counties of Richelieu and Ber-

- thier, and a copy of all correspondence had since 1887 between the department of fisheries and the fishery officers of the said counties on this subject. Presented to the Senate, 14th July, 1891.—*Hon. Mr. Guévremont*.....*Not printed.*
54. Return to an order of the House of Commons, dated 27th July, 1891, for copies of all correspondence connected with the appointment of George Boisvert as fishery officer over that portion of the River St. Lawrence along the front of the county of Nicolet. Also for copies of all correspondence connected with the issuing of fishing licenses for the county of Nicolet between Fabien Boisvert, at that time member of the House of Commons of Canada, or any other persons, and the government. Presented to the House of Commons, 21st August, 1891.—*Mr. Leduc*.....*Not printed.*
55. Return to an order of the House of Commons, dated 18th May, 1891, for a return for the years 1889 and 1890 of all reports from or correspondence with the superintendent of the Prince Edward Island Railway, with respect to the condition of the road-bed or the rails of such railway, together with any reports or representations made with respect to such road-bed or rails by any of the track masters or other officers of said road. 2. Showing what portion in mileage of such road-bed has been relaid with steel rails since the completion of such road. Presented to the House of Commons, 2nd July, 1891.—*Mr. Davies*.....*Not printed.*
56. Statement of the affairs of the British Canadian Loan and Investment Company, for the year ended 31st December, 1890; also a list of shareholders on 31st December, 1890. Presented to the Senate, 4th May, 1891, by the Hon. the Speaker.....*Not printed.*
57. Return to an order of the House of Commons, dated 5th May, 1891, for a return showing the quantities and kinds of timber and sawlogs cut annually in the lately disputed territory, in the province of Ontario, under the authority of timber licenses issued by the government of Canada; the names of such licensees; and showing also how the dues were imposed, and the amount per thousand feet, board measure, realized by the government of Canada from each person or firm so licensed in each year from 1875 to 1887, inclusive; or what royalty or other revenue was received by the government from licensees aforesaid on such quantities cut or sold. Presented to the House of Commons, 6th July, 1891.—*Mr. Barron*.....*Printed for sessional papers only.*
58. Return to an order of the House of Commons, dated 12th May, 1891, for a return giving the date at which the steamer "Stanley" commenced running between Prince Edward Island and the mainland in the fall of 1890, how many trips made, date of each trip, the number of passengers and the amount of freight taken to and from Prince Edward Island; the amount of money collected on account of passengers and the amount for freight; also the expenses of working said steamer during the winter of 1891, and the date at which said steamer stopped running from Prince Edward Island to the mainland; together with the report of the deputy minister, dated 5th March, 1891, touching this steamer, and all correspondence, telegrams and representations made to the marine and post office departments touching the mail and steamboat service between the island and the mainland. Presented to the House of Commons, 13th July, 1891.—*Mr. Perry*—*Not printed.*
59. Return to an address of the House of Commons to his excellency the Governor General, dated 8th July, 1891, for copies of all petitions, correspondence and documents whatsoever, respecting the grant of a subsidy to the Quebec Oriental Railway. Presented to the House of Commons, 20th July, 1891.—*Mr. Vaillancourt*.....*Not printed.*
60. Return to an order of the House of Commons, dated 1st July, 1891, for copies of all correspondence, letters or telegrams addressed to the auditor general with reference to the payment of accounts as rendered to the auditor general by the returning officer of the electoral district of the east riding of Elgin; also the names and post office addresses of the returning officer, deputy returning officers, poll clerks and constables for the electoral district of the east riding of Elgin; also the respective amounts as claimed by each; the amount actually paid to each up to date, including amount of balance, if any, as rendered by the returning officer in his original account to the auditor general. Presented to the House of Commons, 14th July, 1891.—*Mr. Ingram*—*Not printed.*
- 60a. Return to an address of the House of Commons, to his excellency the Governor General, dated 27th July, 1891, for copy of all correspondence between John A. Macdonald, M. P. (Victoria, N. S.), or any other parties in the county of Victoria, N. S., and the government, or any department or official of the government, previous to the late general elections, in reference to the appointment of a returning officer at said elections for said county. Presented to the House of Commons, 3rd August, 1891.—*Mr. Flint*.....*Not printed.*

- 61.** Return to an order of the House of Commons, dated 18th June, 1891, for copy of the report of Collingwood Schreiber, Esq., upon survey made by him of the river St. Lawrence immediately opposite and in the vicinity of the city of Quebec, for the purpose of ascertaining whether it was possible to build a railway bridge there. Presented to the House of Commons, 14th July, 1891.—*Mr. Laurier*. *Printed for both distribution and sessional papers.*
- 62.** Return to an address of the House of Commons to his excellency the Governor General, dated 11th May, 1891, for all correspondence between any department of the government and H. E. Hartley, late lockmaster on the Carillon and Grenville Canal, in reference to his retirement from the civil service, and any report to council or order in council upon the same subject, together with all papers connected with the dismissal of Mr. Hartley. Presented to the House of Commons, 26th June, 1891.—*Mr. Christie*. *Not printed.*
- 62a.** Return to an order of the House of Commons, dated 1st July, 1891, for a copy of the report of Thos. Monro, government engineer, upon the Manchester Ship Canal. Presented to the House of Commons, 21st July, 1891.—*Mr. Mulock*. *Printed for both distribution and sessional papers.*
- 62b.** Return to an order of the House of Commons, dated 18th May, 1891, for copies of all letters, correspondence, documents and papers showing the number of extra or additional men employed on the old and new Welland Canal, between the 10th day of February, 1891, and the 7th day of March, 1891; the names of such men, the work required to be done, and the amount of money paid to each man. Presented to the House of Commons, 28th July, 1891.—*Mr. German*. *Not printed.*
- 62c.** Return to an address of the Senate to his excellency the Governor General, dated 17th June, 1891, for a statement and account showing the amount of money received and taken in excess of what was just and proper by William Ellis, superintendent of the Welland Canal, if any, from the 29th day of December, 1879, until the 11th day of September, 1889; also a statement showing the amount of money paid back by Mr. Ellis, if any, and date of payments, if any. Further, a copy of the bond given as security by Mr. Ellis, if any, to secure the payment of the money taken in excess. Presented to the Senate, 29th July, 1891.—*Hon. Mr. McCallum*. *Not printed.*
- 62d.** Return to an address of the House of Commons to his excellency the Governor General, dated 17th June, 1891, for copies of all petitions, letters and communications from the city of St. Catharines, and other municipalities on the Welland Canal, or from any persons or corporations, for the privilege of using surplus water from said canal for manufacturing or other purposes; and of the reports of engineers of canals, thereon, and the replies of the government to all such applications. Presented to the House of Commons, 12th August, 1891.—*Mr. Gibson*. *Not printed.*
- 62e.** Return to order of the House of Commons, dated 13th July, 1891, for: 1. Copies of the specifications prepared by the government and which formed the basis of the call for tenders for the work of constructing a drain from Lachine to Cote St. Paul, along the Lachine Canal. 2. Copies of all tenders filed for the said work, and of the reports of the officers of the department of railways and canals thereupon. 3. Copies of the report awarding the contract for the said work, and of the said contract. Presented to the House of Commons, 12th August, 1891.—*Mr. Préfontaine*. *Not printed.*
- 62f.** Return to an order of the House of Commons, dated 1st July, 1891, for copies of all reports of engineers respecting the proposed Soulanges Canal, showing the number of sections into which the work is to be divided, the length of each section, the quantities of the several classes of work in each section, and detailed estimates of the cost of each section; the whole to be accompanied with a continuous tracing or plan and profile of the whole line showing the several sections and the structures of each section. Presented to the House of Commons, 12th August, 1891.—*Mr. Mousseau*. *Not printed.*
- 62g.** Return to an order of the House of Commons, dated 27th May, 1891, for a statement showing all expenditure, and a return of all reports and plans of government engineers, if any, in connection with the Soulanges Canal, from 1873 to 1889, exclusively, and from 1889, inclusively, to June, 1890; also a return of all plans and specifications made by engineers and completed by them, at the said date, June, 1890, in relation to the said Soulanges Canal. Presented to the House of Commons, 12th August, 1891.—*Mr. Mousseau*. *Printed for both distribution and sessional papers.*
- 62h.** Return to an address of the House of Commons to his excellency the Governor General, dated 27th May, 1891, for copies of all tenders, both first and second calls, for sections one, two and three respectively, of the enlargement of the Rapide Plat or Morrisburg Canal, a division of the St. Lawrence Canals, the return to comprise the quantities of the several items in the schedule of prices on which the tenders were computed, and the aggregate of each tender. Also copies of all correspondence, orders in council, reports of engineers relating to the tenders, or contracts, for

- works, or as to changes in location or of designs, and all estimates in detail of the cost of said works and the reason for rejecting the first batch of tenders. Presented to the House of Commons, 21st August, 1891.—*Mr. Murray*. *Not printed.*
- 62i.** Return to an order of the House of Commons, dated 3rd June, 1891, for a return of all letters and memorials complaining of the high water in the Rideau Canal between Kingston and Jones' Falls; copies of letters from Colonel By and others, showing the depth of water allowed for vessels navigating the canal; a statement showing the average depth of water in the canal for the first forty years after construction, and for the last ten years; also for copies of plans and reports of engineers engaged on the survey of the Kingston Mills Level, showing the estimate of cost of lowering the water and the quantity of land to be reclaimed if the water is lowered. Presented to the House of Commons, 26th September, 1891.—*Mr. Kirkpatrick*. *Not printed.*
- 63.** Return to an address of the House of Commons to his excellency the Governor General, dated 5th May, 1891, for copies of all correspondence, petitions, memorials, briefs and factums, and of any other documents submitted to the privy council in connection with the abolition of separate schools in the province of Manitoba by the legislature of that province; also copies of reports to, and orders in council thereon; also copies of any act or acts of said legislature abolishing said separate schools or modifying in any way the system existing prior to 1890. Presented to the House of Commons, 20th July, 1891.—*Mr. La Rivière*. *Printed for both distribution and sessional papers.*
- 63a.** Return to an address of the House of Commons to his excellency the Governor General, dated 5th May, 1891, for a copy of all petitions presented to his excellency with reference to the school acts of Manitoba; and all memorials, reports, orders in council and correspondence in connection with the same. Presented to the House of Commons, 20th August, 1891.—*Mr. Devlin*. *Not printed.*
- 63b.** Supplementary return to an address of the House of Commons to his excellency the Governor General, dated 5th May, 1891, for copies of all correspondence, petitions, memorials, briefs and factums, and of any other documents submitted to the privy council in connection with the abolition of separate schools in the province of Manitoba by the legislature of that province; also copies of reports to, and orders in council thereon; also copies of any act or acts of said legislature abolishing said separate schools or modifying in any way the system existing prior to 1890. Presented to the House of Commons, 4th September, 1891.—*Mr. La Rivière*—
Printed for both distribution and sessional papers.
- 64.** Return to an order of the House of Commons, dated 13th July, 1891, for copies of the petition of right presented to the minister of justice for his *fiat* by Joseph Desmarteau for improvements alleged to have been made by him on a "piece of land forming part of the property heretofore known as Logan's Farm, and being a portion of the lot number eleven hundred and thirty-six (1136) of the official plan and book of reference of the St. Mary's Ward, in the city of Montreal, measuring one hundred and fifty-six feet in width by a depth of four hundred and fifty-two (452) feet on the south-west side, and four hundred and eighty-seven (487) feet on the north-east side, English measure, and more or less, and being bounded on the north-east side by the highway known as Papineau Road, on the south-west side by a portion of the said lot number eleven hundred and thirty-six (1136), on the south-east by the lot number eleven hundred (1100) of said plan and book of reference, and on the north-west by Sherbrooke Street, being another portion of the said lot eleven hundred and thirty-six;" of the decision of the minister of justice; and of all correspondence on the same. Presented to the House of Commons, 21st July, 1891.—*Mr. Laurier*. *Not printed.*
- 65.** Return to an address of the Senate to his excellency the Governor General, dated 12th May, 1890, for a statement showing the expenses incurred by the inspector of penitentiaries in his visits, ordinary or extraordinary, to St. Vincent de Paul Penitentiary during the last ten years, as well as his personal expenses for each day of such visits, as those occasioned on each day of such visits by his travelling from Montreal to St. Vincent de Paul, and *vice versa*, for horses, servants, and their keep and lodging. Presented to the Senate, 18th June, 1891.—*Hon. Mr. Bellerose*. *Not printed.*
- 65a.** Supplementary return *re* St. Vincent de Paul Penitentiary. Presented to the Senate, 19th June, 1891, by Hon. Mr. Abbott. *Not printed.*
- 65b.** Return to an address of the Senate to his excellency the Governor General, dated 30th July, 1891, for a detailed copy of accepted tender, giving estimated quantity, price per unit, and amount of all drugs and medicines to be supplied the British Columbia Penitentiary by McPherson & Thompson, of New Westminster, B.C., for the year ending 30th June, 1892. Presented to the Senate, 12th August, 1891.—*Hon. Mr. McInnes (Victoria, B.C.)*. *Not printed.*

- 66.** Return to an address of the Senate to his excellency the Governor General, dated 23rd June, 1891, for copies of all correspondence between the department of justice and the judges in Canada charged with judicial functions in criminal matters as well as the attorney general of each province, respecting the expediency of abolishing the functions of the grand jury in relation to the administration of criminal justice. Presented to the Senate, 8th July, 1891.—*Hon. Mr. Gowan*—
Printed for both distribution and sessional papers.
- 67.** Statement of amounts paid for claims for bounty on pig iron manufactured in the dominion; showing quantities claimed upon and names of claimants, as well as amount paid in each case. Presented to the House of Commons, 28th July, 1891, by Hon. Mr. Bowell—
Printed for both distribution and sessional papers.
- 68.** Return to an address of the House of Commons to his excellency the Governor General, dated 1st July, 1891, for a statement showing the amount of dominion notes in circulation on 31st May, 1891, and amount of gold and guaranteed debentures held in security on said date for redemption of said notes. Also statement showing the proportion of such gold reserve held by the minister of finance and receiver-general, and the proportion thereof held by any chartered banks for such redemption. Also statement showing the arrangements made with such banks, under which they hold such gold reserve. Presented to the House of Commons, 29th July, 1891.—*Mr. Mulock*—
Not printed.
- 69.** Departmental report on charges preferred against the Commissioner of the North-West Mounted Police. Presented to the House of Commons, 30th July, 1891, by Sir John Thompson—
Printed for sessional papers only.
- 70.** Return to an order of the House of Commons, dated 13th May, 1891, for copies of all correspondence since 1st July, 1890, from the New Glasgow board of trade and other boards or persons, respecting the through train from Sydney, C.B., to Oxford, Cumberland County, *viâ* the Short Line Railway. Also copies of all correspondence during said time from any person or persons, asking for better railway accommodation between Pictou and New Glasgow, to and from Halifax. Presented to the House of Commons, 31st July, 1891.—*Mr. Fraser*.....*Not printed.*
- 71.** Return to an order of the House of Commons, dated 27th May, 1891, for copies of all tenders for the construction of the Annapolis public buildings; a copy of the contract entered into with the Government for the construction of the same; a copy of the conveyance to the Queen of the land upon which the same are erected; a statement of all amounts paid to the contractor on account of the work, with dates of payment. Presented to the House of Commons, 4th August, 1891.—*Mr. Lister*—
Not printed.
- 72.** Return to an order of the House of Commons, dated 1st July, 1891, for copies of all correspondence and all documents, or other information in the possession of the Government, relating to entire horses stationed at the central experimental farm, or at any other of the experimental farms in the dominion of Canada. Presented to the House of Commons, 4th August, 1891.—*Mr. McMillan*—
Not printed.
- 73.** Return to an order of the House of Commons, dated 27th July, 1891, for copies of all correspondence and orders relative to the dismissal of William Saunders and William Muttart, section foremen of the Prince Edward Island Railway, in March or April last. Presented to the House of Commons, 10th August, 1891.—*Mr. Perry*.....*Not printed.*
- 73a.** Return to an order of the House of Commons, dated 27th July, 1891, for a return of all correspondence, letters or papers in any way connected with the dismissal, in June, 1884, of one Samuel Johnston, from his position as a preventive officer, in her majesty's customs, for the station from Clifton to Dunnville. Presented to the House of Commons, 23rd September, 1891.—*Mr. German*—
Not printed.
- 74.** Return to an order of the House of Commons, dated 27th May, 1891, for a return showing: 1. Copies of all reports and correspondence relating to the permit system, and the administration thereof; copies of all regulations under which liquor is brought into the North-West Territories and sold there; also copies of all memorials addressed to the government relating to the present system and the sale of liquors, and the replies to the same. 2. Copies of orders or regulations relating to the sale of liquor on passenger trains in the North-West Territories, and within the limits of Banff Park, and statement of kinds and quantities of liquor so sold. Presented to the House of Commons, 12th August, 1891.—*Mr. Watson*.....*Not printed.*
- 75.** Return to an order of the House of Commons, dated 18th June, 1891, for copies of the pay-roll of the last military camp at Sorel and St. John's, P.Q. Presented to the House of Commons, 18th August, 1891.—*Mr. Lépine*.....*Not printed.*

- 75a.** Statement showing names of tenderers, names of contractors and contract prices of military clothing for 1891-92. Presented to the House of Commons, 21st August, 1891, by Sir Adolphe Caron—
Printed for sessional papers only.
- 76.** Return to an order of the House of Commons, dated 17th June, 1891, for copies of all correspondence between the minister of customs and the collector of customs at Kootenay Lake, and between the minister of customs and any other person, relating to the admission of mining machinery into the Kootenay Lake district free of duty. Also a copy of instructions from the minister of customs to the collector of customs on Kootenay River, referring to the free admission of mining machinery. Presented to the House of Commons, 20th August, 1891.—*Mr. Mara. Not printed.*
- 77.** Return to an order of the House of Commons, dated 1st July, 1891, for copies of all correspondence, reports, paper writings and documents respecting the seizure and sale of the schooner "Marie Eliza," in 1887, by the collector of customs at Rimouski. Presented to the House of Commons, 20th August, 1891.—*Mr. Langelier. Not printed.*
- 78.** Return to an order of the House of Commons, dated 1st July, 1891, for a return showing:—1. The names of all permanent clerks in the department of public works, their duties and annual salaries. 2. Names of all extra clerks in the said department, their salaries, and the kind of work performed; also copies of their civil service examination certificates. 3. The names of all persons doing extra work outside of the building, and the nature of work, giving the names of ladies and gentlemen separately. 4. The names of mechanics or others employed in the government workshops at Ottawa. 5. The names of all messengers employed in the said department, either permanent or temporary. 6. The number and names of all labourers employed by the said department since January last, in and around the buildings under government control at Ottawa, including Rideau Hall, stating the kind of work performed and wages paid. Presented to the House of Commons, 21st August, 1891.—*Mr. McMullen. Not printed.*
- 79.** Return to an order of the House of Commons, dated 13th July, 1891, for: 1. Copies of all claims presented to the government since 1880, by Mr. Joseph Antoine Maurice, merchant, of the village of Chambly Basin, and Dame Julie Fournier, his wife, for losses suffered by them in reference to lands purchased by them from the government in 1875. 2. Copies of all correspondence and letters addressed to any department of the government by any person or persons, in relation to said matter. 3. Copies of all correspondence between any of the said departments, or between any Department and the claimants, or any persons acting for them or in their interests, in relation to such claims. 4. Copies of the order of reference made by government referring the said claims to Joseph Simard, Esq., then dominion arbitrator, and of his award. 5. Copies of correspondence following the said award. 6. Copies of the opinions given on the subject by the honourable the minister of public works, and of the opinion of the honourable the minister of justice. Presented to the House of Commons, 21st August, 1891.—*Mr. Préfontaine. Not printed.*
- 80.** Return to an address of the House of Commons to his excellency the Governor General, dated 18th June, 1891, for copies of order in council, correspondence, reports, statement of claims, receipts or accounts with or made by Dr. Walker, or on his behalf, or with or by any other person respecting the Dundas and Waterloo macadamized road, since the close of the session of 1889. Presented to the House of Commons, 24th August, 1891.—*Mr. Bain. Not printed.*
- 81.** Return to an address of the House of Commons to his excellency the Governor General, dated 3rd June, 1891, for copies of all correspondence between the imperial government and the government of Canada, on the subject of the copyright laws of Canada, and all other papers relating thereto, not already brought down. Presented to the House of Commons, 24th August, 1891.—*Mr. Edgar—
Not printed.*
- 82.** Third census of Canada—statement of population—compared with preceding censuses, 1891. Presented to the House of Commons, 26th August, 1891, by Hon. J. Haggart—
Printed for distribution only.
- 82a.** Census of Canada, 1891—electoral divisions—statement of population by districts. Also census bulletin No. 1, and statements of population of cities, of towns and of villages. Presented to the House of Commons, 27th August, 1891, by Hon. J. Haggart.*Printed for distribution only.*
- 83.** Return to an order of the House of Commons, dated 3rd August, 1891, showing: 1. The names of all employees of the customs at Montreal; the date of their appointment; their respective duties; the salary of each; their nationality; their place of birth; and, in case of their not having been born in Canada, for what period they had been in this country at the time of their appointment; and upon whose recommendation they had been appointed. 2. Whether they have all

- passed the civil service examination, and the names of those, if any, who have not passed this examination, since the law requiring it has been in force. 3. The names of those, if any, who have received salaries or pay in addition to that attached to the offices to which they were appointed; the amounts received by such persons, and for what additional work given. 4. The names of the extra labourers for whose services there was paid in 1889-90 the sum of \$12,176.25, as recorded in the Auditor General's Report for the year 1889-90 at page C—254. 5. To whom was paid the sum of \$5,930.29 for cartage at the customs house at Montreal, as recorded in the said report of the Auditor General at page C—254. Presented to the House of Commons, 14th September, 1891.—*Mr. Lépine*.....*Not printed.*
- 84.** Return to an order of the House of Commons, dated 27th May, 1891, for copies of all correspondence, memoranda, documents, letters, petitions and all papers whatsoever in relation to the encouragement of the cultivation of the sugar beet and the protection of the manufacture and refining of beet-root sugar in the dominion of Canada, exchanged between the government or any of its members and any person or company. Presented to the House of Commons, 23rd September, 1891.—*Mr. Beausoleil*.....*Not printed.*
- 85.** Return to an order of the House of Commons, dated 1st July, 1891, for copies of all correspondence, papers and documents relating to the appointment of customs officers at Crystal Beach and Point Abino, in the township of Bertie, and Carroll's Landing, in the township of Humberstone, in the county of Welland. Presented to the House of Commons, 23rd September, 1891.—*Mr. German*—*Not printed.*
- 86.** Return to an address of the Senate to his excellency the Governor General, dated 14th September, 1891, for all correspondence between his excellency and the Lieutenant Governor of the province of Quebec, in connection with the Baie des Chaleurs Railway, and all other papers and correspondence in the possession of the government on that subject. Presented to the Senate, 16th September, 1891.—*Hon. Mr. Miller*.....*Not printed.*
- 86a.** Supplementary return to an address of the Senate to his excellency the Governor General, dated 14th September, 1891, for all correspondence between his excellency and the lieutenant governor of the province of Quebec, in connection with the Baie des Chaleurs Railway, and all other papers and correspondence in the possession of the government on that subject. Presented to the Senate, 23rd September, 1891.—*Hon. Mr. Miller*.....*Not printed.*
- 86b.** Return to an address of the Senate to his excellency the Governor General, dated 21st August, 1891, for an account showing all the moneys expended by subsidy or otherwise on the Baie des Chaleurs Railway, from the commencement of the works thereon to the present time; the names of those to whom paid, and the amount, if any, appropriated to said works and remaining unpaid by the government of Canada. Presented to the Senate, 24th September, 1891.—*Hon. Mr. McInnes (Victoria, B.C.)*.....*Not printed.*
- 87.** Return to an address of the Senate to his excellency the Governor General, dated 29th May, 1891, for copies of all orders in council, commissions and instructions for nominating a person or persons specially charged to examine the situation and resources of that part of the dominion known as the Great Basin of the Mackenzie; and also of the report or reports made by such persons, in order to put the government in a position to decide upon the measures necessary for the protection and development of the territory. Presented to the Senate, 23rd September, 1891.—*Hon. Mr. Girard*.....*Printed for sessional papers only.*
- 88.** General statements and returns of baptisms, marriages and burials in the district of Chicoutimi, Gaspé, Montmagny and Iberville.....*Not printed.*

MESSAGE.

(38)

STANLEY OF PRESTON.

The GOVERNOR GENERAL transmits to the HOUSE OF COMMONS papers relating to the extension and development of trade between the United States and the Dominion of Canada, including the Colony of Newfoundland.

GOVERNMENT HOUSE,

OTTAWA, 3rd June, 1891.

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No. 1.

OFFICE OF THE HIGH COMMISSIONER FOR CANADA,
VICTORIA CHAMBERS, 17 VICTORIA STREET,
LONDON, S. W., 25th Oct., 1890.

SIR,—In consequence of a letter from the Deputy Postmaster General, I proceeded to Paris on the 20th inst., to learn what the Post Office Department there would do in reference to mails by direct line of steamers from France to Canada.

Lord Lytton, Her Majesty's Ambassador in Paris, gave me a letter to the Director General of Posts and Telegraphs, and I saw that gentleman yesterday morning and discussed the matter fully with him.

I am authorized to assure the Canadian Government that France will send all mail matter for the United States and Canada by a direct Canadian line that can be delivered earlier than by any other, on the same terms as the mails are now sent by English lines to New York.

While at Paris your cable of the 21st instant was repeated to me as follows:—

“Bond, Whiteway's Minister now at Washington, announces authority from Imperial Government to make separate fishery treaty. Ascertain truth and enter protest. See *New York Herald* 13th, and *Boston Herald* 18th October.”

I immediately wrote to Sir Robert Herbert a letter of which I enclose you a copy. Previous to the receipt of that letter, Mr. Bramston sent me a despatch of which I also send you a copy, and I have to-day cabled you as follows:—

“Your cable 21st; entered protest as desired. What action do you wish me to take in reference to Pauncefote's telegram to Foreign Office?”

I await your instructions, as it is very important that the same line should be taken in my communications on this question as that adopted by your Government.

I have, &c.,

CHARLES TUPPER, *High Commissioner.*

The Right Honourable the Prime Minister, Ottawa, Canada.

HOTEL CONTINENTAL, PARIS, FRANCE, 21st October, 1890.

DEAR SIR ROBERT HERBERT,—I called yesterday morning to see you and Lord Knutsford in reference to a cable saying that the Foreign Office had allowed Mr. Bond, a Member of the Newfoundland Government, to negotiate through Sir J. Pauncefote with the Government of the United States for the free admission of the Newfoundland fish to the United States markets in exchange for bait and other privileges.

I missed seeing either of you and was obliged to come here on urgent business connected with our fast Atlantic service. After I left London a cable came from Sir J. Macdonald asking me to ascertain whether there was any truth in this rumour, and if so enter a strong protest on behalf of Canada. I have never believed that any policy so obviously disastrous to Canada could be entertained by Her Majesty's Government, and I hope Lord Knutsford will authorize you to send me a letter, under cover to Mr. Colmer, saying I may at once relieve the Government of Canada from any apprehension on this point.

I will lose no time in seeing you on my return to London the latter part of this week.

Yours, &c.,

CHARLES TUPPER.

No. 2.

OFFICE OF THE HIGH COMMISSIONER FOR CANADA,
VICTORIA CHAMBERS, 17 VICTORIA STREET,
LONDON, S.W., 31st October, 1890.

SIR,—Following up my dispatch, No. 677, of the 25th instant, respecting the reported negotiations between Newfoundland and the United States for a separate fishery treaty, I now have the honour to state that I saw Lord Knutsford on Monday last and placed before him fully the views of the Canadian Government upon the subject. I transmit, herewith, for the information of the Government a copy of a letter containing the representation which I subsequently made to His Lordship in writing.

After my letter was written and before its despatch, your further telegram, as under, came to hand, and you will observe that I quoted it in a postscript, for the consideration of Her Majesty's Government.

"Can scarcely believe Newfoundland has received authority from Imperial Government to make separate arrangement respecting fisheries. The relations of all the North American Provinces to the United States and to the Empire would be affected. We are not informed of powers given to Bond, and desire communication of them. Please represent strongly how the fishery and commercial interest of Canada might be injured by such an arrangement as Bond is currently reported as making, and how disastrous from a national point of view it would be for a separate colony to effect an arrangement with the United States more favourable than would be given to the confederated Provinces. Our difficulties under new American tariff are sufficiently great now."

I have the honour to be, sir, your obedient servant,

CHARLES TUPPER, *High Commissioner.*

The Right Honourable the Prime Minister, Ottawa, Canada.

17 VICTORIA STREET, S. W., LONDON, 27th October, 1890.

MY LORD,—I had the honour to receive at Paris, on the 23rd instant, Mr. Bramston's despatch of the same date saying :

"I am directed by Lord Knutsford to acquaint you that a telegram dated 6th instant has been received from Her Majesty's Minister at Washington by the Secretary of State for Foreign Affairs, of which the following is the purport:—

"With reference to your despatch of the 10th ultimo introducing Mr. Bond, I have presented that gentleman to Mr. Secretary Blaine, and negotiations are now going on with a view to an independent arrangement between the United States and Newfoundland relating to the fisheries. Before negotiations go further I would suggest that the Government of Canada might be informed of them as they might wish to negotiate on the same lines as regards New Brunswick and Nova Scotia."

I had previously received a telegram from the Premier of Canada as follows:—

"Bond, Whiteway's Minister, now at Washington, announces authority from Imperial Government to make separate fishery treaty. Ascertain truth and enter protest. See *New York Herald* 13th, *Boston Herald* 18th October.

I believe I am right in saying that, in reference to the question of the Atlantic North American fisheries, Her Majesty's Government has hitherto invariably recognized the importance of obtaining unity of action, as far as was possible, on the part of all the colonies interested. In the Treaty of Reciprocity with the United States, in 1854, the consent of Newfoundland, as well as of the various provinces of Canada, was made necessary to its going into operation, and the same course was followed, subsequent to Confederation, in reference to the treaties of 1871 and 1888.

I learn, with deep regret, that this obviously sound policy has not only been departed from, but that while Newfoundland has on previous occasions been fully advised as to the negotiations that were to be undertaken, Her Majesty's Govern-

ment have, without any intimation to Canada of what was proposed, authorized, so long ago as the 10th of September, Newfoundland to open negotiations for a separate treaty with the United States, and that the first communication to Canada is a suggestion from Sir J. Paucefote, not to include Canada in the proposed arrangement, but "That the Government of Canada might be informed of them as they might wish to negotiate on the same lines as regards New Brunswick and Nova Scotia," *i. e.*, for a treaty independent of the other provinces of Canada.

I should fail in my duty to the Crown as well as to Canada if I did not promptly assure your Lordship that I feel confident the difficulties of the vexed question of the British North American fisheries will be greatly increased by the wide departure that is now proposed from the long established policy that has hitherto prevailed upon this very important question.

I am, &c.,

CHARLES TUPPER.

The Right Honourable

LORD KNUTSFORD, G.C.M.G.

P.S.—Since writing my letter I have received the following telegram from Sir John A. Macdonald, which I beg to quote for the consideration of Her Majesty's Government:—

"I can scarcely believe Newfoundland has received authority from Imperial Government to make separate arrangement respecting fisheries. The relations of all the North American Provinces to United States and to the Empire would be affected. We are not informed of powers given to Bond, and desire communication of them. Please represent strongly how the fishery and commercial interests of Canada will be injured by such an arrangement as Bond is currently reported as making, and how disastrous, from a national point of view, it would be for a separate colony to effect an arrangement with the United States more favourable than would be given to the Confederated Provinces. Our difficulties under the new American tariff are sufficiently great now."

No. 3.

REPORT of a Committee of the Honourable the Privy Council, approved by His Excellency the Governor General in Council on the 12th December, 1890.

The Committee of the Privy Council have had under consideration a report herewith attached, dated 9th December, 1890, from the sub-Committee of Council, to whom was referred a letter from the High Commissioner for Canada, dated 31st October, 1890, on the subject of the recent negotiations between a delegate from the Government of Newfoundland and the administration of the United States for a convention relating to the fisheries and commerce between the colony of Newfoundland and the United States.

The Committee, concurring in the report, recommend the same for Your Excellency's approval.

JOHN J. MCGEE,

Clerk of the Privy Council.

The Honourable

The Minister of Marine and Fisheries.

To His Excellency the Governor General in Council :

The undersigned have had referred to them a letter from the High Commissioner for Canada, dated 31st October, 1890, on the subject of the recent negotiations between a delegate from the Government of Newfoundland and the Administration of the United States, for a Convention relating to the Fisheries and Commerce between the Colony of Newfoundland and the United States.

The High Commissioner had been informed by telegraph from Your Excellency's First Minister, that the Honourable Mr. Bond, a Member of the Newfoundland Government, was at Washington, and seemed to have announced that he had authority from the Imperial Government to make a separate Fishery Treaty for his Government, and the High Commissioner was asked to ascertain the truth and enter protest. He was referred to the New York and Boston papers, which contained the information referred to.

The High Commissioner wrote to Sir Robert Herbert, on the 22nd October, intimating that he had received such a telegram from the Premier of Canada, and on the 23rd October Mr. Bramston addressed the High Commissioner in reply, as follows :—

“ I am directed by Lord Knutsford to acquaint you that a telegram, dated 6th instant, has been received from Her Majesty's Minister at Washington by the Secretary of State for Foreign Affairs, of which the following is the purport :—

“ With reference to your despatch of the 10th ult., introducing Mr. Bond, I have presented that gentleman to Mr. Secretary Blaine, and negotiations are now going on with a view to an independent arrangement between the United States and Newfoundland, relating to the Fisheries. Before negotiations go further, I would suggest that the Government of Canada might be informed of them, as they might wish to negotiate on the same lines as regards New Brunswick and Nova Scotia.”

The High Commissioner in a letter to the Right Honourable Lord Knutsford, Her Majesty's principal Secretary of State for the Colonies, dated the 27th October, set forth the telegram he had received from the First Minister of Canada and the letter from Mr. Bramston, and followed with certain observations, thus :—

“ I believe I am right in saying that, in reference to the question of the Atlantic and North American Fisheries, Her Majesty's Government has hitherto invariably recognized the importance of obtaining unity of action, as far as was possible, on the part of all the Colonies interested. In the Treaty of Reciprocity with the United States, in 1854, the consent of Newfoundland, as well as the various Provinces of Canada, was made necessary to its going into operation, and the same course was followed, subsequent to Confederation, in reference to the Treaties of 1871 and 1888.

“ I learn with deep regret that this obviously sound policy has not only been departed from, but that while Newfoundland has on previous occasions been fully advised as to the negotiations that were to be undertaken, Her Majesty's Government has, without any intimation to Canada of what was proposed, authorized so long ago as the 10th of September, Newfoundland to open negotiations for a separate Treaty with the United States, and that the first communication to Canada is a suggestion from Sir J. Pouncefote not to include Canada in the proposed arrangement, but ‘ that the Government of Canada might be informed of them, as they might wish to negotiate on the same lines as regards New Brunswick and Nova Scotia,’ *i.e.*, for a Treaty independent of the other Provinces of Canada.

“ I should fail in my duty to the Crown, as well as to Canada, if I did not promptly assure Your Lordship that I feel confident the difficulties of the vexed question of the British North American fisheries will be greatly increased by the wide departure that is now proposed from the long established policy that has hitherto prevailed upon this very important question.”

The High Commissioner having communicated to the First Minister the despatch from Mr. Bramston of the 23rd October above set forth, a telegram was sent to him by the First Minister as follows :—

“ Can scarcely believe Newfoundland has received authority from Imperial Government to make separate arrangements respecting fisheries. The relations of all the North American Provinces to the United States and to the Empire, would be affected. We are not informed of powers given to Bond and desire communication of them. Please represent strongly how the fishery and commercial interests of Canada will be injured by such an arrangement as Bond is currently reported as making, and how disastrous from a national point of view it would be for a separate colony to effect an arrangement with the United States, more favourable than would

be given to the confederated provinces. Our difficulties under the new American tariff are sufficiently great now."

Your Excellency was, on the same day, moved to request from Lord Knutsford, communication of the authority possessed by Mr. Bond, and likewise to urge that no arrangement be concluded until your government should be informed of the nature thereof, and unless Canada should be given an opportunity to be included therein, if she should so desire.

It appears also that the High Commissioner waited on Lord Knutsford personally, and expressed at large the views which are indicated in his letter of the 27th October.

About the 15th of November last, it transpired that a draft Convention between Newfoundland and the United States of America had been prepared in the following terms:—

Article I.—"United States vessels to have privilege of purchasing bait in Newfoundland on the same conditions as Newfoundland vessels, and to be allowed to touch and trade, sell their fish and oil, and procure supplies, paying same dues as Newfoundland vessels, and conforming to the harbour regulations.

Article II.—"Facilities shall be given for recovery, in the United States Courts, of the penalties incurred under bonds, by United States citizens.

Article III.—"United States admit duty free, Newfoundland codfish, cod oil, seal and herrings, salmon, lobsters, &c., and crude produce of mines.

Article IV.—"Convention to continue for ten years and thereafter from year to year, subject to a year's notice."

It may be necessary at this stage, to call the attention of Your Excellency and of Her Majesty's Principal Secretary of State for the Colonies, to sum up the grounds on which Your Excellency's advisers feel bound to remonstrate against a separate arrangement being made between the United States and one of the British North American Provinces, to the exclusion of the others, relating to the fisheries and commerce.

From the earliest period in the history of the North American fishery question, down to the opening of the negotiations with Mr. Bond, Her Majesty's Government has invariably recognized the fact that the interests of all her possessions in British North America, with regard to the fisheries, were bound up together, and could only be properly dealt with on a basis common to all.

This view has prevailed at every step in diplomacy and administration, the two great points on which the Atlantic fishery question has always turned being the competition in fishing between British subjects and foreigners, and the question of access to the markets of the United States for sale of the fish caught by British subjects.

In early times the negotiations which took place between Great Britain and foreign countries concerning the fisheries had chiefly in view the Bank fisheries off the coast of Newfoundland, the prosecution of which was immensely facilitated by the obtaining of supplies and outfits in the Island of Newfoundland and on the coast of some of the Provinces now forming part of Canada. These fisheries, with that adjunct, were regarded as the principal object to be secured and established in any arrangement made by Great Britain and the great object aimed at by the United States and France.

By the Treaty of 1778 between France and the United States, (Article X), provision for the fishery rights on the banks of Newfoundland were stipulated for by France and guaranteed by the United States.

The United States took care to stipulate for the enjoyment of these fisheries by the Treaty of 1783.

It was to establish the successful prosecution of these fisheries by her people that France incurred such enormous expenditures in fortifying Louisburg and in retaining possessions in North America, and that the New England colonies, by two successive expeditions, accomplished the capture of Louisburg, and thereby achieved

a success which was described as having counterbalanced all the disasters which had fallen upon the British arms in Europe.

It was with the same view that Lord North, in 1775, introduced his bill to prevent the inhabitants of the New England States from fishing on the banks, although it has now long since been conceded that these fisheries themselves are open to all nations.

The 3rd Article of the Treaty of Paris (1763) dealt in a single paragraph with "*such part of the coast of Newfoundland as British fishermen use, and also the coasts, bays and creeks of all of His Britannic Majesty's dominions in America.*"

When the Treaty of Ghent was being negotiated, in 1814, the bank fisheries were being extensively prosecuted by both American and colonial fishermen. The Americans, however, adopted the policy, which they will doubtless presently revive, (if such Convention as that proposed be adopted), of granting a bounty to aid their own fishermen and establishing customs duties against all others.

From 1815 to 1818 the bounty paid in the United States to fishermen rose from \$1811.00 to \$149,000.00, and after the Convention of 1818, it continued to rise, until, in 1838, it was upwards of \$314,000.00.

On the 17th June, 1815, Lord Bathurst conveyed to Vice-Admiral Sir Richard G. Keats, the command of His Royal Highness the Prince Regent, that while he was to abstain from interfering with the fisheries in which the subjects of the United States might be engaged, either on the Grand Banks, the Gulf of St. Lawrence, or other places in the sea, he should "*exclude their fishing vessels from the bays, harbours, creeks and inlets of His Majesty's possessions.*" His Lordship, in writing to the Governor of Newfoundland, said: "*The subjects of the United States can have no pretence to any right to fish within British jurisdiction, or to use the British territory for purposes connected with the fisheries.*"

When the treaty of 1818 was made, although a special privilege was given to United States fishermen, of fishing on certain parts of the coast of Newfoundland, of the Magdalen Islands and of Labrador, in all other respects the fishermen of all the British Provinces received the same protection, and its provisions were made in the interests of all alike, especially those by which United States fishing vessels were prohibited from entering the bays and harbours of British North America to obtain facilities in the prosecution of the fisheries.

The Imperial Statute of 1819, which was passed to make this treaty effective (59 George III, c 38), as well as all the Acts passed for the same purpose in the British North American Provinces followed the same principle and were uniform as to their substance and spirit.

The Treaty of Reciprocity, of 5th June, 1854, made provisions as to the fisheries and commerce which were common to all the provinces. The rights which it gave to United States fishermen were rights in all the fisheries of British North America, and the commercial concessions made by the United States were made in favour of all the British North American Provinces which were willing to accept them.

In the Washington Treaty of 1871, although Canada was represented among Her Majesty's Plenipotentiaries, and Newfoundland not represented, there was an express provision, by Article 32, that the treaty provisions, relating to the fisheries and commerce, which applied to Canada and Prince Edward Island, should extend to the Colony of Newfoundland, so far as applicable.

The Washington Treaty of 1888, included Canada and Newfoundland under one provision, although, as before, Her Majesty's commission to Her Plenipotentiaries did not include a representative from the Colony of Newfoundland, but included a representative from Canada.

The *Modus Vivendi* attached to the treaty was common to both Canada and Newfoundland, and, until the fishing season of 1890, was kept in force by both countries; the licenses issued to American fishermen by Canada being recognized in Newfoundland, and those issued in Newfoundland being recognized in Canada.

On at least two occasions there were strong expressions from Her Majesty's Government to indicate that any policy not common to all the British North American Provinces would not receive the approval of that Government.

The first of these instances occurred in 1868. A committee of the House of Representatives at Washington was appointed in that year, "to inquire and report, at the next session of Congress, the fullest and most reliable information they could obtain in regard to the Colony of Prince Edward Island, including particularly whatever could be ascertained as to the kind and amount of imports and exports to and from the Island, and the views and disposition, as well as authority, of the Colonial Government, to enter into any particular or exceptional arrangement or agreement, by legislative enactment, with the United States, conceding and securing such privileges as to fisheries on the coast as were contemplated" in a resolution which had been referred to the Committee of Ways and Means for their report, which resolution looked in the direction of free trade between Prince Edward Island and the United States as a return for fishing, under a nominal license fee, on the coast of the Island, and for the right of American fishing vessels to enter for shelter or to obtain supplies and to re-fit free of duty or impost.

The Committee of the House of Representatives proceeded to Prince Edward Island in the summer of 1868, and had a conference with the Executive Council of that Province on the subject of the resolution. Certain propositions were made by the Congressional Committee and were favoured by the Executive Council with slight modifications. The Executive Council made a favourable report on the subject of the Conference, expressing hope that Her Majesty's Government would feel favourable to the propositions although they related to Prince Edward Island only.

The Lieutenant Governor, on the 27th of August, 1868, communicated to the Duke of Buckingham and Chandos the Memorandum of his Council, and informed his Grace, at the same time, that he had "thought it right to express, clearly, in writing to his Council that a Colonial Government had no authority whatever to enter into any particular or exceptional arrangement or agreement with a foreign power."

On the 30th September, 1868, the Duke of Buckingham and Chandos acknowledged the receipt of the despatch from the Lieutenant Governor which enclosed the memorandum sent to him by his advisers, and stated that Her Majesty's Government entirely approved of the answer which the Lieutenant Governor had made to his Council. Here the matter ended.

Another instance occurred in July, 1887, when communicated to Sir Ambrose Shea that "should the Government of Newfoundland see fit to give notice that American fishermen be admitted to the ports of that Province for the purpose of obtaining supplies, the proposal would be cordially accepted and acted on by the Government of the United States." Her Majesty's Principal Secretary of State for the colonies, informed the officer administering the Government of Newfoundland that "no separate action should be attempted by the Newfoundland Government, in the direction suggested, without full previous communication with Her Majesty's Government."

These documents were transmitted to Your Excellency's predecessor. In the end, the attempt to negotiate a separate arrangement between the United States and Newfoundland was abandoned, and negotiations were opened with Her Majesty's Government on behalf of Newfoundland and Canada. This resulted in the Washington Treaty of 1888, which was only defeated by want of concurrence on the part of the Senate of the United States. Since that time, the Governments of Newfoundland and Canada have acted in concert.

The Government of Newfoundland has repeatedly recognized the force of the view here contended for.

In an address to Her Majesty's principal Secretary of State for the Colonies, from the Legislative Council and House of Assembly in Newfoundland, dated 18th May, 1886, after referring to the fact that the British fishermen engaged in the prosecution of the cod fisheries, had great advantages over American fishermen, under

the Convention of 1818, and after stating further that the United States had abrogated the Treaty of Washington and renewed the impost on fishery products of British colonies, the following expression, which may now be aptly applied to the prospects of the Canadian fishermen if a separate arrangement should be made for Newfoundland was used.

“If we supinely assent to this course, we shall provide these, our rivals, with the means of shutting us entirely out of the United States markets.”

In a despatch, dated the 14th January, 1887, from Governor Sir G. Des Voeux to Mr. Stanhope, the former well described the position in which Newfoundland fishermen would be placed if obliged to furnish bait to foreign fishermen who would be in competition with them in the markets of the foreign country, while these markets were practically closed to the products of British fisheries. He says: “It is evident that Newfoundland is thus furnishing the means of its own destruction.”

Further on in the same despatch, the writer states: I have very good reason for believing that, as regards the United States, the right of obtaining bait would be restored on the opening of the American markets to Newfoundland fish, or (if common cause be made with Canada) to all British fish.”

Referring, in a subsequent passage, to the Canadian Statute, passed in 1887, for the enforcement of the Treaty of 1818, by the exclusion of the American fishing vessels, except for the purposes for which they were allowed to enter, under the Convention of 1818, His Excellency said: “I may mention, as probably having escaped notice, that this object will, to a large extent, fail to be secured if a similar measure in this colony should not be enforced, as it is not impossible that the Americans could afford to disregard the prohibition of bait on the Canadian coast if they were assured of being able to procure the bait they require on the coast of Newfoundland. The interests of Canada and of this colony being thus to this extent identical, it is not difficult to foresee that any further delay in the allowance of the Bill would give rise to the strongest pressure on the part of the Canadian Government.”

In a letter from Sir Robert Thorburn, Premier of Newfoundland, to Her Majesty's Principal Secretary of State for the Colonies, dated April 27th, 1887, on the subject of the Newfoundland Bait Act, and of the remonstrances of Canada against the same, which had been put forward on a supposition that Canadian fishermen would be put in the position of foreign fishermen by that Act, in being obliged to pay for licenses; Sir Robert Thorburn said that the inference drawn by Sir G. W. Des Voeux, in his despatch relative to the Bait Bill, that Canada would suffer from its disallowance, inasmuch as American and other foreign fishermen would continue to procure their bait supplies in Newfoundland waters, particularly if excluded from this privilege in Canadian waters, seemed a perfectly clear conclusion, and served practically to illustrate the desirability of British fishermen retaining the undivided control of so important an element as the Bait supply, giving them vantage ground over their bounty sustained rivals.

When the Arbitration took place at Halifax, to settle the compensation to be paid by the United States under the treaty of Washington, the British case was presented by an agent of Her Majesty's Government, in consultation with counsel from Newfoundland as well as from the Provinces of Canada.

The following is an extract from that case, which will serve to indicate the value of the privileges which were supposed to be accorded to United States fishermen by the Treaty of 1871, of procuring bait and of making Newfoundland the basis of operations, while the disadvantages to Newfoundland fishermen which are there set forth affect equally Canadian fishermen who pursue their vocation in the bank and deep sea fisheries:—“Apart from the immense value to the United States fishermen of participation in Newfoundland inshore fisheries, must be estimated the important privilege of procuring bait for the prosecution of the bank and deep sea fisheries, which are capable of unlimited expansion. With Newfoundland as a basis of operations, the right of procuring bait, refitting their vessels, drying and curing fish, procuring ice in abundance for the preservation of bait, liberty of transhipping their cargoes, &c., and almost continuous prosecution of the bank fisheries secured

to them. By means of these advantages, United States fishermen have acquired, by the Treaty of Washington, all the requisite facilities for increasing their fishing operations to such an extent as to enable them to supply the demand for fish food in the United States markets and largely furnish the other fish markets of the world, and thereby exercise a competition which must inevitably prejudice Newfoundland exporters.

"Not only are the United States fishermen almost entirely dependent on the bait supply from Newfoundland, now open to them, for the successful prosecution of the bank fisheries, but they are enabled, through the privileges conceded to them by the Treaty of Washington, to largely increase the number of their trips, and thus considerably augment the profits of the enterprise."

Attention may be called to the action of the United States Administration in the present year.

By the adoption of the tariff measure which is popularly known as the "McKinly Act," the Customs duties of the United States are greatly increased on nearly all Canadian products. (including fresh fish, unless caught in vessels or by nets owned by American citizens). While this measure is in force, and is avowed to be designed to teach Canadians that they cannot avail themselves of the markets of the United States while they continue their allegiance as British subjects, a separate arrangement with Newfoundland would practically dissolve the protection given by the Treaty of 1818, by enabling American fishing vessels to have access to the ports of Newfoundland as a base of supplies and for the purpose of transhipping their cargoes. The protection afforded by that Treaty for upwards of seventy years would thus be taken away from Canadian fishermen and Newfoundland fishermen alike, but there would be special compensation to the fishermen of Newfoundland, in the shape of removal of duties, while the Canadian fishermen would be made to pay enhanced duties under the new American tariff. While this would, perhaps, be the most effectual method of impressing on the minds of the Canadian people the lesson that they cannot be British subjects and enjoy American markets, Her Majesty's Government can hardly, on reflection, feel surprised that Your Excellency's Government have not for a moment believed that Her Majesty's Ministers would co-operate with the authorities of the United States in inculcating such a lesson at the present time.

The subject has also to be viewed to some extent in connection with the question of the Confederation of the Provinces. The union which was effected, in accordance with the strong desire of Her Majesty's Government, in 1867, has always been viewed with unfriendly feelings by a large portion of the people in the United States, who continue, with great reason, to regard it as a means of consolidating British power in North America. The Confederated Provinces, at great sacrifices, have striven to accomplish that object, they have made progress in the direction of its accomplishment of which they feel some pride, but they are now threatened with being placed in a worse position, as regards some of the most important interests of their commerce, than the one colony in British North America which has remained outside of the Union.

The administration of the United States has long been aware that the Government of Canada is willing to enlarge the trade relations between the two countries by a system of reciprocity. That intention has so often been announced, in offers from the Canadian Government, in proposals put forward by negotiations, in customs legislation and in public declarations of responsible Ministers, that the authorities of the United States have from time to time resented what has been considered the importunity of Canada in this regard. Her representatives have often reproached Canada with being unable to maintain existence without reciprocity, and asserted that the livelihood of her people is dependent on tariff concessions from the United States. Canada has been constantly accused, by public men in the United States, of adopting a severe policy in asserting her fishery rights, in order to force negotiations for the extension of trade.

Her Majesty's Principal Secretary of State for the Colonies may, perhaps, with propriety be reminded, on this occasion, that the complaint constantly put forward against Canada in the United States is that Canada denies hospitality in her ports to American vessels, which is not denied to Canadian vessels in United States Ports. When the Treaty of 1818 was negotiated the abstention by American fishing vessels from using British ports, except for shelter, repairs, wood and water, was conceded by the United States negotiators in return for the right to fish in-shore on parts of the coasts of Newfoundland and Labrador and on all the coasts of the Magdalen Islands. This privilege so rarely accorded by the people of one country to the people of another, was boasted of by the American negotiators, after the Treaty of 1818 was signed, as having secured to the United States the most valuable fisheries on the British American coast.

The people of the United States have made no proposal to relinquish that benefit, but they complain that the concession by which it was purchased should be enforced.

It seems necessary also to remind Her Majesty's Principal Secretary of State for the Colonies of the peculiar position in which British and Canadian fishing interests will be placed by such a convention as that proposed, in view of the Bait Act of Newfoundland. Under that Act and the regulations made by the Government of Newfoundland under powers conferred on them by it, no fishing vessel can enter the ports or harbours of Newfoundland to obtain bait without a license which can only be obtained under very onerous restrictions which exact among other things, a very heavy license fee. His Lordship will remember that that Act was only allowed by Her Majesty's Government to go into operation after the most distinct written pledges given by members of the Newfoundland Government, and by its representatives, that no license fee would be exacted from Canadian fishermen. During the fishing season of last year that pledge was not observed and the same fee which was charged to foreign vessels was exacted from Canadian fishermen. His Lordship will remember that the attention of Her Majesty's Government has already been drawn to this subject by Minute of Council of your Government, and that, on a subsequent occasion, in the month of August last, the High Commissioner for Canada and the Minister of Justice had an interview with His Lordship, in the presence of two delegates from the Newfoundland Government, in which, on behalf of Canada, this whole subject was presented again and in the course of which His Lordship was good enough to urge upon the delegates from Newfoundland, that their Government should keep faith when their faith had been so distinctly pledged. The delegates from the Newfoundland Government present at that time, professed ignorance of the pledges which had been given, until they had communication of them in London, but they assured his Lordship that the attention of their Government would be given to the matter immediately, with a view and desire to carry out the promises which had been made. The fulfilment of this renewed promise and the exemption of Canadian fishermen from the provisions of the Bait Act would not lessen any of the objections which have been stated in this report, but it seems necessary to remind Her Majesty's Principal Secretary of State for the Colonies, that if this promise should still go unfulfilled and the draft convention be adopted the singular case would be presented of one colony of the Empire admitting Foreign vessels to privileges in her ports and excluding the vessels of the neighboring colonies as well as of the mother country, from the like privileges.

Respectfully submitted.

JOHN S. D. THOMPSON,

Minister of Justice.

CHARLES H. TUPPER,

Minister of Marine and Fisheries.

OTTAWA, 9th December, 1890.

No. 4.

REPORT of a Committee of the Honourable the Privy Council, approved by His Excellency the Governor General in Council on the 18th December, 1890.

The Committee of the Privy Council having learned that the Honourable the Secretary of State for the United States, had expressed to Her Majesty's Minister at Washington, his readiness to negotiate for a Reciprocity Treaty on a wide basis, and particularly for the protection of the mackerel fisheries, and for the Fisheries on inland waters, and had subsequently stated to Her Majesty's Minister his great desire to conclude a Reciprocity Treaty, they desire to take the opportunity afforded by these intimations from Mr. Blaine of suggesting the expediency of taking early steps to adjust the various matters that have arisen and now exist affecting the relations of Canada with the United States, or rather the relations between the Government of the United States and that of the United Kingdom on questions affecting Canada.

The most obvious means of carrying this object into effect, would be the appointment of a Joint Commission as in 1871.

The Committee of Council desire to suggest that such Commission should be authorized to deal with all such questions without limitation as to range of discussion, and to prepare a Treaty or Convention as to such of those matters as they may come to an agreement upon.

The principal subjects for discussion would appear to be—

1. The renewal of the Reciprocity Treaty of 1854, subject to such modifications as the altered circumstances of both countries require, and to such extensions as the Commission may deem to be in the interest of the United States and Canada.

2. The reconsideration of the Treaty of 1888 respecting the Atlantic Fisheries, with the view of effecting the free admission of Canadian Fishery products into the markets of the United States in exchange for facilities for United States fishermen to purchase bait and supplies, and tranship cargoes in Canada. All such privileges to be mutual.

3. The protection of the mackerel and other fisheries on the Atlantic Ocean and on the Inland Waters.

4. The relaxation of the Coasting Laws of both countries on the seaboard.

5. The relaxation of the Coasting Laws of both countries on Inland Waters between the United States and Canada.

6. The mutual salvage and saving of wrecked vessels.

7. Arrangements for the delimitation of boundary between Alaska and Canada. Such Treaty to be of course *ad referendum*.

The Committee respectfully submit this minute for His Excellency's sanction.

JOHN J. MCGEE,

Clerk of the Privy Council.

To the Honourable

The Minister of Marine and Fisheries.

No. 5.

Sir Julian Pauncefote to Lord Stanley of Preston.

WASHINGTON, 15th January, 1891.

MY LORD,—In accordance with instructions which I have received from the Marquis of Salisbury, I have the honour to transmit to Your Excellency the enclosed copy of a draft convention to improve commercial relations between the United States and the Colony of Newfoundland, which was communicated to me on the 6th instant by Mr. Blaine, as showing to what extent and on what conditions the Government of the United States are willing to enter into an arrangement of the kind proposed by the Government of Newfoundland in the month of October last.

I have, &c.,

JULIAN PAUNCEFOTE.

HIS EXCELLENCY THE GOVERNOR GENERAL, &c.

CONVENTION between Great Britain and the United States of America for the improvement of commercial relation between the United States and Her Britannic Majesty's Colony of Newfoundland.

The Governments of Great Britain and the United States, desiring to improve the commercial relations between the United States and Her Britannic Majesty's Colony of Newfoundland, have appointed as their representative Plenipotentiaries and given them full powers to treat and conclude such convention, that is to say:—

Her Britannic Majesty on Her part has appointed Sir Julian Pauncefote, and the President of the United States has appointed on the part of the United States James G. Blaine, Secretary of State.

And the said Plenipotentiaries, after having exchanged their full powers, which were found to be in due and proper form, have agreed to and concluded the following articles:—

Article 1.—United States fishing vessels entering the waters of Newfoundland shall have the privilege of purchasing herring, caplin, squid and other bait fishes, at all times on the same terms and conditions and subject to the same penalties in all respects as Newfoundland vessels.

They shall also have the privilege of touching and trading, selling fish and oil and procuring supplies in Newfoundland, conforming to the harbour regulations, but without other charge than the payment of such light, harbour and customs dues as are or may be levied on Newfoundland fishing vessels.

Article 2.—Dry codfish, cod oil, seal skins, herrings, salmon, and trout salmon, lobsters, cod roes, tongues and sounds, the product of the fisheries of Newfoundland shall be admitted into the United States free of duty.

Also all hogsheads, barrels, kegs, boxes or tin cans in which the articles above named may be carried shall be admitted free of duty. It is understood however that "green" cod fish are not included in the provisions of this article.

Article 3.—The Officers of Customs at the Newfoundland port where a vessel laden with the articles named in article 2 clears, shall give to the master of such vessel a sworn certificate that the fish shipped were taken in the waters of Newfoundland which certificate shall be countersigned by the Consul or Consular Agent of the United States and delivered to the proper officer of Customs at the port of destination in the United States.

Article 4.—When this Convention shall come into operation and during the continuance thereof the duties to be levied and collected upon the following enumerated merchandise imported into the colony of Newfoundland from the United States shall not exceed the following amounts, viz:

Flour, 25 cents a barrel.

Pork, 1½ cent per pound.

Bacon and hams, tongues, smoked beef and sausages 2¼ cents per pound or \$2.50 per 112 pounds.

Beef, pigsheads, hocks and feet salted or cured ½ cent per pound.

Indian meal, 25 cents per barrel.

Oatmeal, 30 cents per barrel of 200 pounds.

Peas, 30 cents per barrel.

Bran, Indian corn and rice, 12½ per cent *ad valorem*.

Salt in bulk, 20 cents per ton of 2240 pounds.

Kerosine oil, 6 cents per gallon.

The following articles imported into the colony of Newfoundland from the United States shall be admitted free of duty: Agricultural implements and machinery imported by Agricultural Societies for the promotion of agriculture.

Crushing mills for mining purposes.

Raw cotton, corn for the manufacture of brooms, gas engines when protected by patent, ploughs and harrows, reaping, raking, ploughing, potato digging and seed sowing machines to be used in the colony.

Printing presses and printing types.

Article 5.—It is understood that if any reduction is made by the colony of Newfoundland at any time during the term of this Convention in the rates of duty upon the articles named in Article 4 of this Convention, the said reduction shall apply to the United States.

Article 6.—The present Convention shall take effect as soon as the laws required to carry it into operation shall have been passed by the Congress of the United States on the one hand and by the Imperial Parliament of Great Britain and the Provincial Legislature of Newfoundland on the other hand. Such assent having been given, the convention shall remain in force for five years from the date at which it may come into operation and further until the expiration of twelve months after either of the High Contracting Parties shall give notice to the other of its wish to terminate the same, each of the high contracting parties being at liberty to give such notice to the other at the end of the said term of five years or at any time afterwards.

Article 7.—This Convention shall be duly ratified by the President of the United States of America and by and with the advice and consent of the Senate thereof and by Her Britannic Majesty: and the ratifications shall be exchanged at Washington on the first day of February, 1891, or as soon thereafter as practicable.

In faith thereof, we, the respective plenipotentiaries, have signed this Convention and have hereunto affixed our seals.

Done in duplicate at Washington this day of in the year of Our Lord one thousand eight hundred and

No. 6.

REPORT of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 29th January, 1891.

The Committee of the Privy Council have had under consideration a despatch, dated 15th January, 1891, from Her Majesty's Minister at Washington, accompanied by the copy of a proposed convention between Great Britain and the United States for the improvement of commercial relations between the United States and the Colony of Newfoundland, and also the telegram from the Right Honourable the Secretary of State for the Colonies to Your Excellency, dated the 23rd January, inst.

The sub-committee of Council, to whom the despatch and enclosures were referred, report as follows;—

The reasons advanced in the Minute of Council, approved on the 12th December, 1890, referring to the negotiations for a trade and fishery arrangement between the United States and Newfoundland, appear to Your Excellency's Government to be fully as important and pressing now as they were at the date of that Minute, and to be as applicable to the present draft convention as to the draft which had then been under consideration.

While those reasons have doubtless been considered by Her Majesty's Government, they do not appear to have had attached to them the weight which, in the opinion of Your Excellency's advisers, they are entitled to, for the despatch of Lord Knutsford, dated the 23rd January, instant, merely intimates the inconveniences of delay with regard to the convention proposed for Newfoundland, as though only delay had been asked, and as though objections in point of principle had not been advanced.

Her Majesty's Government will doubtless remember that when the protest of Your Excellency's Government against the draft convention, which was considered in December last, was made known to the principal Secretary of State for the Colonies, His Lordship intimated that if Canada were willing to commence negotiations at once, the Newfoundland Convention would not be concluded immediately, but that negotiations on behalf of Canada could go on *pari passu* with those regarding Newfoundland.

Your Excellency's Government at once assented to the propriety of this course, and announced their willingness to commence negotiations at once, with the sanction of Her Majesty's Government, only expressing a preference for a formal and official conference under commission, rather than a private and unofficial discussion.

No responsibility for delay rests on Your Excellency's Government. Even the dissolution of Parliament, which has been referred to as possible, would not retard negotiations.

The sub-Committee feel bound therefore to recommend that the Government of Canada insist on the importance of the negotiation concerning trade relations with Canada proceeding *pari passu* with those affecting Newfoundland.

The Sub-Committee observe that an examination of the proposed convention will show that while, as was stated in the Minute of Council, approved in December last, the advantages afforded to the British North American fishermen under the Treaty of 1818 would be reduced almost to a nullity, the fishery products of Newfoundland would be admitted to the markets of the United States under such a convention on such terms as to displace very largely the like products exported by the fishermen of Canada to that country.

That the Canadian Government has declared its policy to be that no commercial arrangements with a foreign country should be acceded to by Canada which would involve tariff discrimination against the mother country, and this principle has had the approval of Her Majesty's Government, but it will be difficult to induce the people of Canada to continue to believe in the importance of that principle, as a safeguard to the interests of the empire, if Great Britain now makes a convention for Newfoundland under which the United States is able to discriminate directly against Canada.

The Sub-Committee are of opinion that Your Excellency's Government should press the importance of permitting no discrimination, at least as against any part of British North America, to be made in any trade arrangement with the United States, and should continue to urge the necessity of insistence that in any such arrangement all Her Majesty's Provinces in North America shall participate equally.

The Sub-Committee submit that it seems necessary further to invite close attention to the fifth article of the draft convention. That article seems fairly open to the construction that if the existing rates of duty in Newfoundland on the articles mentioned in article four shall be reduced, as regards importations from other countries than the United States, the United States shall have a further reduction below that which the convention fixes as the maximum duties on United States goods of that description. If this is the construction intended, the convention is open to the further objection that it stipulates for a continued preference in the markets of Newfoundland for United States products over those of every other country, involving, therefore, not only discrimination by the United States in favour of Newfoundland, but by Newfoundland in favour of the United States, and such discrimination would be against Canada and the mother country as well.

The Committee concur in the said report of the Sub-Committee, and request that Your Excellency be pleased to transmit this minute, if approved, to the Right Honourable the Principal Secretary of State for the Colonies.

JOHN J. MCGEE,
Clerk of the Privy Council.

No. 7.

Colonial Office to the Governor General.

23rd January, 1891.

Her Majesty's Government have given fullest considerations to representations of Canada against proposed Newfoundland Convention. As Canadian negotiations with the United States could not, even in despite of absence of further delay arising

from dissolution of Dominion Parliament, be commenced before March and may not be carried (?) this year, Newfoundland interests should not be indefinitely postponed. Newfoundland Ministers inform me that they are willing to negotiate for an arrangement with Canada on a basis similar to that of the proposed Convention with the United States. Her Majesty's Government strongly hope that your Government will, on this understanding, withdraw opposition to ratification of Convention between Newfoundland and the United States.

SECY. OF STATE.

No. 8.

Sir Julian Pauncefote to the Governor General.

WASHINGTON, 26th January, 1891.

MY LORD,—I have the honour to acknowledge the receipt of Your Excellency's Despatch No. 8, confidential, of the 22nd instant, containing an approved report of the Privy Council of Canada, dated 12th December, 1890, on the subject of the negotiation carried on by me with the assistance of the Colonial Secretary of Newfoundland for improving the trade relations between that Colony and the United States.

I have, &c.,

JULIAN PAUNCEFOTE.

His Excellency the Lord Stanley of Preston.

No. 9.

OFFICE OF THE HIGH COMMISSIONER FOR CANADA,
VICTORIA CHAMBERS, 17 VICTORIA STREET, LONDON, S.W.
25th March, 1891.

SIR,—I have the honour to transmit to you, under separate cover, book post, six copies of the following Imperial Parliamentary Paper for the information of the Government:—

Correspondence relating to a proposed Convention to regulate questions of Commerce and Fishery between the United States and Newfoundland (C.6303).

I have the honour to be, sir, your obedient servant,

J. G. COLMER, *for High Commissioner.*

The Right Honourable The Prime Minister, Ottawa, Canada.

NORTH AMERICA.

CORRESPONDENCE RELATING TO A PROPOSED CONVENTION TO REGULATE QUESTIONS OF COMMERCE AND FISHERY BETWEEN THE UNITED STATES AND NEWFOUNDLAND.

Table of Contents.

1890.

1. Sir Terence O'Brien, Feb. 28th (Received Mar. 20th). Encloses a minute of the Executive Council in favour of the establishment of a separate arrangement on fishery and commercial questions with the United States, as opposed to co-operation with Canada.

2. To Foreign Office, Apr. 2nd. Encloses copy of a despatch from the Governor of Newfoundland on the subject of the relations of the Colony with the United States, and states the terms of the proposed reply.
3. Foreign Office, Apr. 10th. Concurs in the proposed reply to the despatch from the Governor of Newfoundland relative to the desire of the colony for a separate arrangement with the United States.
4. To Sir Terence O'Brien, Apr. 12th. Observes that the question of a separate arrangement with the United States will receive the consideration of Her Majesty's Government.
5. Sir W. V. Whiteway, July 12th. Encloses a memorandum of proposals by himself and Mr. Harvey relative to the position of American subjects with regard to the Bait Bill.
6. Sir W. V. Whiteway, July 21st. Memorandum respecting the development of the resources of Newfoundland, and guarantee of a loan.
7. To Sir W. V. Whiteway, July 31st. State that Treasury would not consent to guarantee a loan unless it should form part of a general arrangement for settling the fisheries question with France.
8. Sir W. V. Whiteway, Sept. 9th. States that Mr. Bond, the Colonial Secretary, is proceeding to New York, and requests that he may be furnished with authority to communicate the views of the Newfoundland Government to Sir J. Paucefote.
9. To Foreign Office, Sept. 9th. Transmits copy of Sir W. Whiteway's letter of 9th September, and enquires whether there is any objection to furnishing to Mr. Bond the authority asked for.
10. Foreign Office, Sept. 10th. Encloses copy of a letter of introduction to Sir J. Paucefote for Mr. Bond.
11. To Robert Bond, Esq., Sept. 10th. Encloses a letter of introduction to Sir J. Paucefote.
12. To Sir W. V. Whiteway, Sept. 11. States that a letter of introduction to Sir J. Paucefote has been forwarded to Mr. Bond.
13. To Lord Stanley of Preston, Oct. 22nd (Telegraphic). Informs him of the receipt of a telegram from Sir J. Paucefote, reporting the opening of negotiations between Newfoundland and the United States.
14. To the High Commissioner for Canada, Oct. 23rd. Conveys the substance of the Telegram from Sir J. Paucefote enclosed in Foreign Office letter of 17th October.
15. The High Commissioner for Canada, Oct. 27th. Expresses his deep regret at the departure from the old policy of treating the North Atlantic Fishery question as one requiring unity of action between Newfoundland and Canada, and encloses copy of a Telegram from Sir John Macdonald on the subject.
16. Lord Stanley of Preston, Telegraphic (Received Oct. 31st). Reports that the Dominion Government wish to have an opportunity of being included in any arrangement.
17. To the High Commissioner for Canada, Nov. 1st. States that the representations made in his letter of 27th October will receive careful consideration.
18. To Foreign Office, Nov. 3rd. Transmits paraphrase of a Telegram from the Governor-General of Canada, with draft of the proposed reply, and suggests that Sir J. Paucefote should be instructed to consider in what way the wish of Canada to be included in any arrangement may best be met.
19. Foreign Office, Nov. 4. Concurs in the proposed reply to Lord Stanley's Telegram of 30th October, and states that Sir J. Paucefote has been instructed to report in what way the wish of the Canadian Government to be included in any arrangement can best be carried out.
20. To Lord Stanley of Preston, Telegraphic, Nov. 4th. Informs him that Mr. Bond has no powers or instructions to negotiate, and that Her Majesty's Government are in communication with Her Majesty's Minister at Washing-

ton as to the desire of the Dominion Government to be included in any arrangement which may be concluded.

21. Foreign Office, Nov. 6th. Transmits paraphrase of a Telegram from Sir J. Pauncefote, giving the substance of the draft convention which has been submitted to Mr. Blaine.
22. Foreign Office, Nov. 10th. Transmits copy of a Despatch from Sir J. Pauncefote, reporting the progress of the negotiations with Mr. Blaine.
23. Foreign Office, Nov. 13th. Transmits copy of a Despatch from Sir J. Pauncefote, covering a copy of the draft convention between Newfoundland and the United States, which has been privately communicated to Mr. Blaine.
24. Foreign Office, Nov. 13th. Transmits paraphrase of a Telegram from Sir J. Pauncefote, reporting that Mr. Blaine is anxious for the return of Mr. Bond to Washington.
25. To Sir Terence O'Brien, Telegraphic, Nov. 14. States that Mr. Blaine desires that Mr. Bond should return at once to Washington.
26. Sir Terence O'Brien, Telegraphic (Received 14th). Reports that the Colonial Secretary will leave by the first opportunity.
27. To Lord Stanley of Preston, Telegraphic Extract, Nov. 15th. Conveys the substance of the draft convention between the United States and Newfoundland.
28. Lord Stanley of Preston, Telegraphic Extract (Received Nov. 19th). Reports that his Ministers view with the utmost alarm the proposed convention between Newfoundland and the United States, and remonstrate against it being signed.
29. To Lord of Stanley of Preston, Telegraphic Extract, Nov. 25th. Observes that Her Majesty's Government would desire a full statement, showing how it is apprehended that injury would result to Canada from the Newfoundland convention.
30. Sir Terence O'Brien, Telegraphic (Received Nov. 29th). Reports that his Government strongly desire that Sir J. Pauncefote may be authorized without delay to sign the convention with the United States.
31. Sir Terence O'Brien, Nov. 21st (Received Dec. 5th). Reports that Mr. Bond left for Washington on the 21st November.
32. Sir Terence O'Brien, Telegraphic (Received Dec. 9th). Reports that his Ministers make urgent representations that proper authority to sign the convention may be sent to Her Majesty's Minister without delay.
33. To Sir Terence O'Brien, Telegraphic, Dec. 10th. Observes that Her Majesty's Government are not at present able to authorize Sir J. Pauncefote to conclude the draft convention, as it is necessary to consider how Canadian interests may be affected.
34. Sir Terence O'Brien, Telegraphic, Dec. 12th (Received Dec 12th). Transmits a minute of the Executive Council repudiating the interference of Canada, whose interests are not identical with those of Newfoundland, and praying Her Majesty's Government to reconsider their decision not to conclude the convention at present.
35. To Sir Terence O'Brien, Telegraphic, Dec. 18th. Observes that there would be little inconvenience in the delay involved by a full consideration of the interests affected by the draft convention.
36. Foreign Office, Dec. 18th. Transmits a paraphrase of a Telegram from Sir J. Pauncefote, stating that Mr. Blaine has intimated his willingness to accept a modification of the convention with Newfoundland, and that Mr. Bond has returned to the Colony.
37. Sir Terence O'Brien, Telegraphic (Received Dec. 22nd). Transmits a minute from Ministers appealing to Her Majesty's Government to sanction the conclusion of the convention, and emphatically protesting against the introduction of Canadian questions.

38. Lord Stanley of Preston, Dec. 13th (Received Dec. 29th). Transmits copy of Privy Council Minute regarding the recent negotiations between Mr. Bond, of Newfoundland, and the Government of the United States.
39. Sir Terence O'Brien, Telegraphic (Received Dec. 29th). Reports that his Ministers approve the convention which Mr. Bond has arranged with the United States, and requests that immediate instructions may be given to Her Majesty's Minister at Washington to sign it, as the delay is prejudicial to trade relations, and public opinion is strongly agitated.
40. To Sir Terence O'Brien, Telegraphic Extract, Jan. 1st, 1891. Requests information as to modifications of the convention conceded to the United States.
41. Sir Terence O'Brien, Telegraphic Extract (Received Jan. 3rd). Reports that his Government do not suppose that Her Majesty's Government will inter-vene objections.
42. Foreign Office, Jan. 7th. Encloses paraphrase of a Telegram from Sir J. Pauncefote reporting the substance of the counter-draft of a convention with Newfoundland which had been communicated by Mr. Blaine.
43. To Sir Terence O'Brien, Telegraphic, Jan. 13th. Conveys the substance of the counter-draft of a convention which Mr. Blaine has intimated his willingness to accept.
44. To Foreign Office, Jan. 13th. Requests that Sir J. Pauncefote may be instructed to send direct to Newfoundland a copy of the counter-draft handed to him by Mr. Blaine.
45. Foreign Office, Jan. 14th. States that Sir J. Pauncefote has been instructed to send copies of Mr. Blaine's counter-draft to Newfoundland and Canada.
46. Sir Terence O'Brien, Telegraphic (Received Jan. 17th). Expresses the deep regret of his Government that the United States Government have struck crude minerals out of the list of articles to be admitted under the convention, and renews their protest against the grievous injustice which is being done to the Colony.
47. Sir J. Pauncefote, Dec. 26th (1890). Reports the proceedings of Mr. Bond at Washington during his visit in November and December last, and encloses copy of revised draft agreement arranged between Mr. Bond and Mr. Blaine.
48. Sir J. Pauncefote, Extract, Jan. 6th. Transmits copy of counter-draft of a convention which had been handed to him by Mr. Blaine.
49. To Sir Terence O'Brien, Telegraphic Jan. 23rd. Observes that Her Majesty's Government feel compelled to maintain the position they have taken up as to deferring the draft convention with the United States, but they are prepared to accept the principle of an Imperial guarantee for a loan for railway construction, and desire information as to the probable amount required, &c.
- 49a. To Lord Stanley of Preston, Telegraphic, January 23rd. Observes that Her Majesty's Government has given fullest consideration to the representations of Canada, and that the interests of Newfoundland should not be indefinitely postponed.
50. To Sir Terence O'Brien, Telegraphic Extract Jan. 23rd. States that the tone of his Telegram of 17th January is not justified, and that the question cannot be disposed of as speedily as was anticipated and desired.
51. Ditto, Telegraphic Feb. 9th. States that Her Majesty's Government are willing to propose a loan to develop the resources of the Colony, as indicated in the Telegram of 23rd January, after a Commission has reported on the condition and resources of the Colony.
52. Ditto, Telegraphic Feb. 9th. Informs him that Her Majesty's Government regret that they are not at present in a position to proceed with the convention.
53. Sir Terence O'Brien, Telegraphic (Received Feb. 10th). Reports that his Government cannot understand the withdrawal of Her Majesty's Government from a distinct and positive undertaking, and they observe that in making the interests of Newfoundland subservient to those of Canada Her Majesty's Government are ruining the future prospects of the Colony.

54. To Sir Terence O'Brien, Telegraphic Feb. 11th. Informs him that Her Majesty's Government have definitely decided not to proceed with the convention at present, and that they have observed the language of his Ministers with much regret.
55. Ditto, Feb. 12th. Sets forth the reasons for which Her Majesty's Government have decided that until it has been more definitely ascertained whether negotiations between Canada and the United States can proceed, the Newfoundland convention must remain in abeyance.
56. Lord Stanley of Preston, Jan. 31st (Received Feb. 13th). Incloses copy of a Minute of the Privy Council conveying the views of the Dominion Government upon the Newfoundland convention with the United States.
57. To Sir Terence O'Brien, Telegraphic Extract Feb. 14th. Instructs him to present the Secretary of State's Despatch of 12th February to both Houses.
58. Sir Terence O'Brien, Telegraphic (Received Feb. 14th). Transmits resolutions of both Houses protesting against the interests of Newfoundland being made subservient to those of Canada, and urging Her Majesty's Government to immediately ratify the convention.
59. To Sir Terence O'Brien, Telegraphic Feb. 17th. Points out, with reference to a statement in the resolutions of the Legislature, that Mr. Bond was invited to return to Washington to furnish information, and not to conclude the negotiation.
60. Ditto, Telegraphic Feb. 21st. Observes that it was a very unusual course for a member of the Colonial Government to propose to the Legislature resolutions condemning the proceedings of Her Majesty's Government without placing before it full reasons which had led to the action objected to.
61. Sir Terence O'Brien, Feb. 16th (Received Mar. 3rd). Transmits copy of the resolutions passed by both Houses of the Legislature regarding the delay in ratifying the convention.
62. Telegraphic (Received Mar. 7th). Submits text of resolution passed by House of Assembly in answer to Secretary of State's Telegram of 11th February, and Despatch of 12th February, regarding the proposed convention with the United States.
63. Telegraphic Mar. 7th. (Received Mar. 8th.) States in detail the text of the paragraph objected to by him in the Address received from Ministers.
64. To Sir Terence O'Brien. Mar. 12th. Recapitulates the correspondence which has passed in connection with Mr. Bond's mission and the proposed convention, and points out that the Newfoundland Legislature has again recorded an inaccurate view of the transactions referred to.

CORRESPONDENCE relating to a proposed Convention to regulate Questions of Commerce and Fishery between the United States and Newfoundland.

No. 1.

Sir Terence O'Brien to Lord Knutsford.

Received 20th March, 1890.

GOVERNMENT HOUSE,

ST. JOHN'S, NEWFOUNDLAND, 28th February, 1890.

MY LORD,—I have the honour to enclose a copy of a Minute of Council of 27th instant, when a telegraphic message from His Excellency the Governor General of Canada and my reply thereto were considered.

2. Your Lordship will observe that my Ministers are strongly of opinion that, as our interests are not identical, and we have no burning questions with the United States such as those existing between that country and the Dominion, we would be more likely to obtain better reciprocal advantages for our fisheries by negotiating

direct with the former than while we are included with the latter in such arrangements.

3. From a report made by the then Colonial Secretary, the Hon. E. D. Shea, dated 9th December, 1884, it would appear that this matter has been already laid before the Imperial Government, when great hopes were held out that it would be favourably received. It was, however, postponed until after the Presidential election, when, the mission of the Right Hon. J. Chamberlain supervening, Newfoundland found itself included with Canada in the *modus vivendi* necessitated by the failure of these negotiations.

4. As I have reason to believe that the States would not object to treat with us direct, and would give us far better terms than we have at present, I fully concur in the proposals of my Government, and would strongly urge Your Lordship giving them your favourable consideration.

I have, &c.,

T. O'BRIEN, Lieut.-Colonel,
Governor.

The Right Hon. Lord KNUTSFORD, G.C.M.G.,
&c., &c., &c.

[Enclosure in No. 1.]

EXTRACT from *Minutes of Council of 27th February, 1890.*

His Excellency the Governor having brought under the notice of Council the following telegram received by him from the Governor General of Canada on the 22nd instant, viz.: "My Ministers would like to have the views of your Government on the question of extending the operation of the *modus vivendi* for another year or longer," it was resolved that a reply be forwarded that "Bait question is under the consideration of my Government. Until a decision is arrived at no answer can be given," and that as the interests of this Colony are not identical with those of the Dominion of Canada, that a strong representation to that effect be made to the Imperial Government, with a view to negotiations with the United States Government being entered upon for a distinct arrangement with reference to this Colony as regards the fishery questions and trade relations.

No. 2.

Colonial Office to Foreign Office.

DOWNING STREET, 2nd April, 1890.

SIR,—I am directed by Lord Knutsford to transmit to you, to be laid before the Marquis of Salisbury, a copy of a despatch (No. 1) from the Governor of Newfoundland, enclosing a Minute of Council expressing the wish of the Government of that Colony that negotiations should be entered upon for a distinct arrangement with reference to that Colony as regards the fishing questions and trade relations with the United States.

Lord Knutsford proposes at present, with Lord Salisbury's concurrence, merely to acknowledge the receipt of this despatch, and to promise that the matter shall receive the consideration of Her Majesty's Government, and to defer any further reply until the excitement at present existing in the Colony in regard to the French lobster fishery question has to some extent abated, or until Her Majesty's Government are enabled to discuss the matter personally with the Premier of the Colonial Government on his arrival in this country.

I am, &c.,

JOHN BRAMSTON.

The Under Secretary of State,
Foreign Office.

No. 3.

Foreign Office to Colonial Office.

FOREIGN OFFICE, 10th April, 1890.

SIR,—I have laid before the Marquis of Salisbury your letter of the 2nd instant, (No. 2) enclosing a copy of Sir T. O'Brien's despatch of the 28th of February as to the views of the Government of Newfoundland in regard to the operation of the *modus vivendi*, temporarily established by the Protocols signed at Washington on the 15th February, 1888, for regulating the fisheries on the Atlantic Coast of North America.

In reply, I am directed by His Lordship to request that you will state to Secretary Lord Knutsford that he concurs in the course which it is proposed to take in this matter at the present time.

I am, &c.,

P. W. CURRIE.

The Under Secretary of State,
Colonial Office.

No. 4.

Lord Knutsford to Sir Terence O'Brien.

DOWNING STREET, 12th April, 1890.

SIR,—I have the honour to acknowledge the receipt of your despatch of the 28th of February last, (No. 1) enclosing a copy of a Minute of Council expressing the wish of your Government that negotiations should be entered upon for a distinct arrangement with reference to Newfoundland as regards the fishing questions and trade relations with the United States.

At the present moment, I can only assure you that this question will receive the consideration of Her Majesty's Government, but I should be glad of the opportunity of discussing the matter with the Premier of your Government on his arrival in this country.

I have, &c.,

KNUTSFORD.

SIR TERENCE O'BRIEN.

No. 5.

Sir W. V. Whiteway to Colonial Office.

HOTEL METROPOLE, LONDON, July 12th, 1890.

DEAR LORD KNUTSFORD,—According to your request, I beg to enclose a memorandum which Mr. Harvey agrees with me as our suggestion in the matter of the United States question.

We therefore submit same for your consideration.

I am, &c.,

W. V. WHITEWAY.

The Right Hon. Lord KNUTSFORD.

[Enclosure in No. 5.]

MEMORANDUM *with regard to the United States.*

American vessels to have the privilege of purchasing bait at all times on same terms and in same quantities as Newfoundland vessels, and to have all privileges of touching and trading, selling fish, oil, &c., and getting supplies without other charges than light and harbour dues and customs dues, such as are levied on Newfoundland vessels similarly employed.

American vessels procuring bait from Newfoundland to give bonds, similar to bonds given by Newfoundland vessels, with like penalties; provision to be made for enforcing penalties in United States territory.

In return, United States to admit codfish, cod oil, seal oil, herrings, salmon, &c., from Newfoundland, the produce of Newfoundland fisheries, free of duty.

July 12th, 1890.

No. 6.

Sir W. Whiteway to Colonial Office.

MEMORANDUM *respecting the Development of the Resources of Newfoundland, and the Guarantee by Her Majesty's Government of a Loan for that purpose to be raised by the Government of the Colony.*

The "Handbook of Newfoundland" is furnished herewith, in which the resources of the Colony—agricultural, mineral and forests—are referred to.

There has already been built about 120 miles of railroad, and a contract has been entered into for the construction of about 270 miles more, which, with about 150 miles additional, would open the lands referred to in the Handbook. The fisheries of Newfoundland, although a great source of continuous wealth, can only afford employment to a certain number, and therefore an increasing population must either emigrate or find other sources of industry. The large areas of land might be made a location for a thriving agricultural population of immigrants, and their introduction into the Colony would be of material advantage in instructing the people of the Colony in agricultural pursuits, for which their hereditary occupation of fishing has not qualified them, but the youth may be drawn off into the interior by example and inducements to settle there.

To develop this country requires an expenditure of capital which cannot be immediately remunerative, and there is comparatively a small population, say about 190,000, for opening up a country in extent equal to about England and Wales.

The Government and people are making strenuous efforts to accomplish this object, but they are still suffering from that policy which in the past dictated the action of the Imperial Government in keeping the Newfoundland fisheries as a nursery for British seamen, and preventing settlement in the Colony, and also from unfortunate treaties which have tended to crush the energies of a hardy race of men, and thwarted the progress of the island.

Whilst other British Colonies have received encouragement and pecuniary aid towards their development, Newfoundland has had to struggle against prohibitory and oppressive laws. It is now asked that Her Majesty's Government will make amends for the errors of past Governments, and aid in the Colony's development, not by advancing money from the Imperial Treasury, but only to guarantee a loan, say 10 million dollars, or about 2 millions sterling, for the purposes before mentioned, by doing which Her Majesty's Government will incur no risk. This will enable the Colony to obtain the loan at a very low rate of interest, and the money judiciously expended in railroads and in aiding settlement will be of advantage, not only to Newfoundland, but to the mother country, in developing her oldest and nearest Colony, and in affording houses there for numbers of her surplus agricultural labourers, from whose industry there is every reason for believing much wealth may be poured into Britain from the lands of Newfoundland, as in the past has been the case from her fisheries.

21st July, 1890.

No. 7.

Colonial Office to Sir W. Whiteway.

DOWNING STREET, July 31st, 1890.

SIR,—I am directed by Lord Knutsford to acknowledge the receipt of your memorandum of the 21st instant (No. 6), "respecting the development of the resources of Newfoundland, and the guarantee by Her Majesty's Government of a loan for that purpose to be raised by the Government of the Colony."

Lord Knutsford fears that it would not be possible to obtain at the present moment the consent of the Lords Commissioners of the Treasury to a guarantee of a loan of 2,000,000*l.* for the purposes suggested, nor at any time unless such a guarantee should form a part of a general arrangement for the settlement of the fisheries question with France.

At the same time, in case any opportunity should occur for making a proposal to the Treasury, it would be desirable that Lord Knutsford should be furnished with a complete statement of the financial condition and prospects of the Colony, and he would be glad if you would favour him with such a statement showing the condition of the Colony during recent years.

Any papers in the possession of this Department which would facilitate the preparation of such a statement will be at your disposal for the purpose of reference.

I am, &c.,

JOHN BRAMSTON.

SIR WILLIAM WHITEWAY, Q.C., K.C.M.G.

No. 8.

Sir W. V. Whiteway to Colonial Office.

LONDON, 9th September, 1890.

SIR,—Having understood that Her Majesty's Government has consented to negotiate with the United States Government with a view to an arrangement under which fish and other products of Newfoundland may be admitted into the United States free of duty, in return for concessions to be made by Newfoundland as regards the purchase of bait by United States fishermen, I beg to say that the Honourable Mr. Robert Bond, Colonial Secretary of Newfoundland, is about to proceed to New York, leaving London to-morrow (Wednesday), the 10th instant; and I have the honour to ask the favour of his being furnished with such authority as may be deemed necessary for his communicating to Her Majesty's Minister at Washington the views of the Newfoundland Government, in order to the attainment of the object desired.

I am, &c.,

W. V. WHITEWAY,

Premier and Attorney-General, Newfoundland.

JOHN BRAMSTON, Esq., C.B.

P.S.—Should there be no prospect of conceding Mr. Bond's request by letter to be posted to-morrow addressed to him steamship "Polynesian," Queenstown, may I beg that it be addressed as soon as possible to him, Astor House, New York?

W. V. W.

No. 9.

Colonial Office to Foreign Office.

DOWNING STREET, September 9th, 1890.

SIR,—I am directed by Lord Knutsford to transmit to you, for communication to the Marquis of Salisbury, a copy of a letter (No. 8) from Sir William Whiteway,

requesting that Mr. Bond, Colonial Secretary of Newfoundland, who leaves for New York to-morrow, may be authorized to communicate to Sir Julian Pauncefote, at Washington, the views of the Colonial Government on the subject of the proposed separate arrangements respecting fishery questions between Newfoundland and the United States.

I am to request to be informed whether Lord Salisbury has any objection to giving the proposed authority.

The Under Secretary of State,
Foreign Office.

I am, &c.,

JOHN BRAMSTON.

No. 10

Foreign Office to Colonial Office.

FOREIGN OFFICE, September 10th, 1890.

SIR,—I am directed by the Marquis of Salisbury to acknowledge the receipt of your letter of yesterday (No. 9), forwarding a letter from Sir W. Whiteway, in which he states that the Honourable Robert Bond, Colonial Secretary of Newfoundland, is authorized by him to explain to Her Majesty's Minister at Washington the views of the Newfoundland Government in regard to an arrangement for the admission of fish and other products of Newfoundland into the United States free of duty, in exchange for facilities for the purchase of bait by United States fishermen.

Sir W. Whiteway requests that Sir J. Pauncefote may be informed that Mr. Bond has authority to speak to him on the subject.

I am to inclose a despatch to Sir J. Pauncefote, introducing Mr. Bond, which Lord Salisbury has had pleasure in giving, in compliance with Sir W. Whiteway's wishes.

The Under Secretary of State,
Colonial Office.

I am, &c.,

T. H. SANDERSON.

[Enclosure in No. 10.]

The Marquis of Salisbury to Sir J. Pauncefote.

FOREIGN OFFICE, 10th September, 1890.

SIR,—This despatch will be delivered to you by the Honourable Robert Bond, Colonial Secretary of Newfoundland, who is about to proceed to New York, and has been commissioned by Sir W. Whiteway, the Prime Minister of the Colony, to communicate to you the views and wishes of the Newfoundland Government with regard to an arrangement for the admission of fish and other products of Newfoundland to the United States free of duty, in return for concessions as to the purchase of bait by United States fishermen.

Sir W. Whiteway has requested that you may be informed that Mr. Bond has authority to speak to you on the subject in the name of the Newfoundland Government, and I have accordingly furnished him with this introduction to you.

I am, &c.,

SALISBURY.

No. 11.

Colonial Office to Robert Bond, Esq.

DOWNING STREET, September 10th, 1890.

SIR,—I am directed by Lord Knutsford to transmit to you a letter of introduction (Enclosure in No. 10) to Her Majesty's Minister at Washington, which has

been obtained from the Foreign Office, at the request of Sir W. V. Whiteway, to enable you to explain to Sir Julian Pauncefote the views of the Newfoundland Government in regard to the proposed arrangement to obtain the admission free of duty into the United States of fish and other products of the Colony.

ROBERT BOND, Esq.

I am, &c.

JOHN BRAMSTON.

No. 12.

Colonial Office to Sir W. V. Whiteway.

DOWNING STREET, September 11th, 1890.

SIR,—In reply to your letter of the 9th instant (No. 8), I am directed by Lord Knutsford to inform you that a letter of introduction to Her Majesty's Minister at Washington, obtained from the Foreign Office, to enable Mr. Bond to explain to Sir Julian Pauncefote the views of the Newfoundland Government in regard to the admission of fish and other products of the Colony into the United States, was yesterday forwarded to Mr. Bond, to the care of the captain of the steamship *Polynesian*, Queenstown.

I am, &c.,

JOHN BRAMSTON.

Sir W. V. WHITEWAY, Q.C., K.C.M.G.

No. 13.

Lord Knutsford to Lord Stanley of Preston.

Telegraphic.

October 22, 1890.—The following is the substance of a telegram received by the Marquis of Salisbury from British Minister at Washington, 17th instant:—

“With reference to your Lordship's despatch of the 10th ultimo, introducing Mr. Robert Bond, I have presented that gentleman to Mr. Secretary Blaine, and negotiations are now going on with a view to an independent arrangement between the United States and Newfoundland relating to the fisheries. Before negotiations go further, I would suggest that the Government of Canada might be informed, as they might wish to negotiate on the same lines as regards the Provinces of New Brunswick and Nova Scotia.”

No. 14.

Colonial Office to the High Commissioner for Canada.

DOWNING STREET, October 23, 1890.

SIR,—I am directed by Lord Knutsford to acquaint you that a telegram dated the 16th instant, has been received from her Majesty's Minister at Washington by the Secretary of State for Foreign Affairs, of which the following is the purport:—

“With reference to your despatch of the 10th ultimo, introducing Mr. Bond, I have presented that gentleman to Mr. Secretary Blaine, and negotiations are now going on with a view to an independent arrangement between the United States and Newfoundland relating to the fisheries. Before negotiations go further, I would suggest that the Government of Canada might be informed of them, as they might wish to negotiate on the same lines as regards New Brunswick and Nova Scotia.”

The substance of Sir J. Pauncefote's telegram has been communicated by telegraph to the Governor General of Canada.

I am, &c.,

JOHN BRAMSTON.

The High Commissioner for Canada.

No. 15.

The High Commissioner for Canada to Colonial Office.

VICTORIA CHAMBERS, 17 VICTORIA STREET,
LONDON, 27th October, 1890.

MY LORD,—I had the honour to receive at Paris, on the 23rd instant, Mr. Bramston's despatch of the same date (No. 14), saying:—

“I am directed by Lord Knutsford to acquaint you that a telegram dated 6th instant, has been received from Her Majesty's Minister at Washington by the Secretary of State for Foreign Affairs, of which the following is the purport:

“With reference to your despatch of the 10th ultimo, introducing Mr. Bond, I have presented that gentleman to Mr. Secretary Blaine, and negotiations are now going on with a view to an independent arrangement between the United States and Newfoundland relating to the fisheries. Before negotiations go further, I would suggest that the Government of Canada might be informed of them, as they might wish to negotiate on the same lines as regards New Brunswick and Nova Scotia.”

I had previously received a telegram from the Premier of Canada as follows:—

“Bond, Whiteway's Minister, now at Washington, announces authority from Imperial Government to make separate Fishery Treaty. Ascertain truth and enter protest. See ‘New York Herald,’ 13th, ‘Boston Herald,’ 18th October.”

I believe I am right in saying that in reference to the question of the Atlantic North American fisheries Her Majesty's Government has hitherto invariably recognized the importance of obtaining unity of action, so far as was possible, on the part of all the Colonies interested. In the Treaty of Reciprocity with the United States in 1854, the consent of Newfoundland, as well as of the various provinces of Canada, was made necessary to its going into operation; and the same course was followed, subsequent to confederation, in reference to the treaties of 1871 and 1888.

I learn with deep regret that this obviously sound policy has not only been departed from, but that, while Newfoundland has on previous occasions been fully advised as to negotiations that were to be undertaken, Her Majesty's Government have, without any intimation to Canada of what was proposed, authorized, so long ago as the 10th September, Newfoundland to open negotiations for a separate treaty with the United States; and that the first communication to Canada is a suggestion from Sir J. Pauncefote not to include Canada in the proposed arrangements, but “that the Government of Canada might be informed of them, as they might wish to negotiate on the same lines as regards New Brunswick and Nova Scotia,” *i.e.*, for a treaty independent of the other provinces of Canada.

I should fail in my duty to the Crown, as well as to Canada, if I did not promptly assure your Lordship that I feel confident the difficulties of the vexed question of the British North American fisheries will be greatly increased by the wide departure that is now proposed from the long-established policy that has hitherto prevailed upon this very important question.

I am, &c.,

CHARLES TUPPER.

The Right Hon. Lord KNUTSFORD, G.C.M.G.,
Secretary of State for the Colonies.

P.S.—Since writing my letter, I have received the following telegram from Sir John A. Macdonald, which I beg to quote for the consideration of Her Majesty's Government:—

“Can scarcely believe Newfoundland has received authority from Imperial Government to make separate arrangement respecting fisheries. The relations of all the North American provinces to United States and to the Empire would be affected. We are not informed of powers given to Bond, and desire communication of them. Please represent strongly how the fishery and commercial interest of Canada will be injured by such an arrangement as Bond is currently reported as making, and how disastrous from a national point of view it would be for a separate colony to effect

an arrangement with the United States more favourable than would be given to the confederated provinces. Our difficulties under new American tariff are sufficiently great now."

C. T.

—
No. 16.

Lord Stanley of Preston to Lord Knutsford.

Received 31st October, 1890.

Telegraphic.

Referring to your telegram of the 22nd (No. 13), Dominion Government are not informed of Bond's powers or instructions, and wish for communication thereof, and to have opportunity reserved for Canada to be included in any arrangement.

—
No. 17.

Colonial Office to the High Commissioner for Canada.

DOWNING STREET, 1st November, 1890.

SIR,—I am directed by Lord Knutsford to acknowledge the receipt of your letter of the 27th ultimo (No. 15) drawing attention to the objection entertained by the Government of Canada to separate fishery arrangement between the United States and Newfoundland, and to acquaint you that the representation which it contains will receive very careful consideration.

I am, &c.,

The High Commissioner for Canada.

JOHN BRAMSTON.

—
No. 18.

Colonial Office to Foreign Office.

DOWNING STREET, November 3rd, 1890.

SIR,—I am directed by Lord Knutsford to transmit to you, to be laid before the Marquis of Salisbury, a paraphrase of a Telegram (No. 16) received from the Governor-General of Canada relating to the negotiations proceeding at Washington on the subject of an arrangement between the United States and Newfoundland relating to the fisheries.

Lord Knutsford proposes, with Lord Salisbury's concurrence, to reply to the Governor-General in the terms of the Telegram (See No. 20) of which a draft is inclosed; and he would suggest, for Lord Salisbury's consideration, whether it would not be advisable that the Governor-General's Telegram and the reply should be telegraphed to Sir Julian Pauncefote, with instructions to consider in what way the wish of Canada to be included in any arrangement may best be made, and to telegraph home for consideration the terms of any convention or arrangement which he thinks could be obtained or is desirable.

I am, &c.,

JOHN BRAMSTON.

The Under Secretary of State,
Foreign Office.

No. 19.

Foreign Office to Colonial Office.

FOREIGN OFFICE, 4th November, 1890.

SIR,—With reference to your letter of yesterday's date (No. 18), respecting the proposed negotiations between Newfoundland and the United States for an arrangement as to the fisheries question, I am directed by the Marquis of Salisbury to request that you will state to Lord Knutsford that he concurs in the proposed reply to Lord Stanley's telegram of the 30th ultimo (No. 16).

I am to add that, in accordance with the suggestion made in your letter, the telegraphic correspondence with the Governor General of Canada on this subject has been communicated by telegraph to Her Majesty's Minister at Washington.

Sir Julian Pauncefote has also been requested to report in what way he considers that the wish of the Canadian Government to be included with that of Newfoundland in any arrangement made with the United States can best be carried out.

I am, &c.,

P. W. CURRIE.

The Under Secretary of State,
Colonial Office.

No. 20.

*Lord Knutsford to Lord Stanley of Preston.**Telegraphic.*

4th November, 1890. Your telegram of 30th October (No. 16). Bond has no powers or instructions. Having decided to visit Washington he was introduced to the British Minister in order to consider with him whether, as Newfoundland delegates believed, United States would, under McKinley law, remit or reduce duty on Newfoundland fish if Colony granted reciprocally facilities for procuring bait. No wider arrangement suggested. Her Majesty's Government are in communication with British Minister respecting wish of Dominion Government that Canada should be included in any arrangement.

No. 21.

Foreign Office to Colonial Office.

FOREIGN OFFICE, November 6th, 1890.

SIR,—With reference to my letter of the 4th instant (No. 19), I am directed by the Marquis of Salisbury to transmit herewith, for the information of Secretary Lord Knutsford, a paraphrase of a telegram from Sir J. Pauncefote, giving the substance of a draft convention he has privately communicated to Mr. Blaine for an arrangement as to fishing questions and trade regulations between the United States and Newfoundland.

I am to point out that Sir J. Pauncefote defers replying to the inquiry addressed to him as to the best mode of including Canada in such an arrangement until he has discussed the draft with Mr. Blaine.

I am, &c.,

P. W. CURRIE.

The Under Secretary of State,
Colonial Office.

[Enclosure in No. 21.]

Paraphrase of Telegram from Sir J. Pauncefote.

WASHINGTON, 5th November, 1890.

In reply to your Lordship's telegram of yesterday, I beg to state that Sir W. Whiteway's memorandum of the 12th July (Enclosure in No. 5), corresponds exactly

with the convention I have communicated to Mr. Blaine, except that, in accordance with Mr. Bond's request, crude minerals have been added.

The 1st article provides that the privilege of purchasing bait fishes in Newfoundland in the same manner as vessels of the Colony shall be accorded to United States fishing vessels; also that United States fishing vessels shall be allowed to touch and trade, sell their fish and oil, and procure supplies, on condition that they pay the same dues as Newfoundland vessels, and conform to the harbour regulations.

In Article II provision is made that facilities shall be given for recovery of penalties in United States Courts under bonds against United States citizens.

Under Article III the United States are to admit duty free the produce of the fisheries of Newfoundland, including cod and seal oil, and also the produce of mines.

By Article IV it is agreed that the Convention shall hold good for ten years, and that after that period it shall, subject to one year's notice, continue from year to year.

I hope to discuss the above proposal with Mr. Blaine in the course of a few days, and until I have done so, I would ask to be allowed to defer my reply to your Lordship's inquiry as to the best mode of including Canada in the arrangement.

No. 22.

Foreign Office to Colonial Office.

FOREIGN OFFICE, 10th November, 1890.

SIR,—I am directed by the Marquis of Salisbury to transmit herewith, for Lord Knutsford's information, a copy of a despatch from Her Majesty's minister at Washington on the subject of Mr. Bond's visit to the United States, and the progress of the negotiations for a reciprocity arrangement between that country and Newfoundland on fishery and trading questions.

The Under Secretary of State,
Colonial Office.

I am, &c.,
P. W. CURRIE.

[Enclosure in No. 22.]

Sir J. Pouncefote to the Marquis of Salisbury.

(Extract.)

WASHINGTON, October 30th, 1890.

MY LORD,—With reference to your Lordship's despatch of the 10th ultimo (Enclosure in No. 10), informing me of the intended visit to this country of the Honourable Robert Bond, Colonial Secretary of Newfoundland, for the purpose of communicating to me the views and wishes of the Colonial Government with regard to a reciprocity arrangement with the United States, I have the honour to report that Mr. Bond arrived in Washington at the end of last month, while I was still at Magnolia.

The Secretary of State happened to be passing through Washington at the time, and I availed myself of the opportunity to request him to receive Mr. Bond unofficially, in order that he might explain to him informally the general character of the proposed arrangement, and the advantages which would result to the United States from its adoption.

Mr. Blaine at once acceded to my request, and Mr. Bond had a lengthy interview with him, the result of which was that I was invited to put the Newfoundland proposals in the shape of a draft convention.

I accordingly transmitted to Mr. Blaine a draft which had been previously approved by Mr. Bond, and I have every hope that it will be accepted without any important modifications, provided it should not meet with any formidable opposition

on the part of the representatives of the fishery interests in New York, Boston and Gloucester.

* * * * *

I have, &c.,

JULIAN PAUNCEFOTE.

The Marquis of Salisbury, K.G.,
&c., &c.

No. 23.

Foreign Office to Colonial Office.

FOREIGN OFFICE, November 13th, 1890.

SIR,—With reference to my letters of the 6th and 10th instant, (Nos. 21 and 22) I am directed by the Marquis of Salisbury to transmit herewith, for Lord Knutsford's information, a copy of a Despatch from Her Majesty's Minister at Washington, inclosing a copy of the draft convention for the improvement of the commercial relations between the United States and Newfoundland which he has communicated privately to Mr. Blaine.

I am, &c.,

P. W. CURRIE.

The Under Secretary of State,
Colonial Office.

[Enclosure in No. 23.]

Sir J. Pauncefote to the Marquis of Salisbury.

WASHINGTON, November 4th, 1890.

MY LORD,—In continuation of my Despatch of the 30th ultimo (Enclosure in No. 22) respecting the pending negotiations for a reciprocity arrangement with the United States in relation to Newfoundland, I have the honour to inclose a copy of the draft convention referred to in that Despatch, and of the private note in which I transmitted it to Mr. Blaine for his consideration.

The draft is in precise accordance with the wishes of the Newfoundland Government, with the addition of crude minerals to the list of free imports. This I inserted in Article III at the request of the Honourable Mr. Bond, the Colonial Secretary of Newfoundland, and being pressed by him to send the draft to Mr. Blaine at once I acceded to his request.

I trust that my action in this matter under the circumstances will meet with your Lordship's approval.

I have, &c.,

JULIAN PAUNCEFOTE.

The Marquis of SALISBURY, K.G.,
&c. &c. &c.

DRAFT CONVENTION.

CONVENTION between Great Britain and the United States of America for the improvement of commercial relations between the United States and her Britannic Majesty's Colony of Newfoundland.

The Governments of Great Britain and of the United States, desiring to improve the commercial relations between the United States and Her Britannic Majesty's Colony of Newfoundland, have appointed as their respective Plenipotentiaries, to wit:—

who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following Articles:—

ARTICLE I.

United States fishing-vessels entering the waters of Newfoundland shall have the privilege of purchasing herring, caplin, squid and other bait fishes, at all times, on the same terms and conditions in all respects as Newfoundland vessels. They shall also have the privilege of touching and trading, selling fish and oil, and getting supplies in Newfoundland, conforming to the harbour regulations, but without other charge than the payment of such light, harbour, and customs dues as are, or may be, levied on Newfoundland fishing-vessels.

ARTICLE II.

Whereas the master of every United States fishing-vessel to whom a licence to purchase bait may be granted under the last preceding Article will be required to enter into the bond prescribed by law in the case of Newfoundland vessels, and difficulties may arise in recovering penalties incurred by United States citizens for the violation of such bonds, the United States Government agree to take such measures as may be necessary to enable the Government of Newfoundland to recover such penalties in the Courts of the United States.

ARTICLE III.

The produce of Newfoundland fisheries, that is to say, codfish, cod oil, seal oil, herrings, salmon, lobsters, &c., and all crude or unmanufactured produce of Newfoundland mines, shall be admitted into the United States free of duty.

ARTICLE IV.

This convention shall be ratified, and the ratifications shall be exchanged in as soon as possible.

It shall come into force on such day as shall be agreed on between the High Contracting Parties, and it shall continue in force for the term of ten years from the date at which it may come into operation, and, further, until the expiration of twelve months after either of the High Contracting Parties shall give notice to the other of its wish to terminate the same, each of the High Contracting Parties being at liberty to give such notice to the other at the end of the said term of ten years, or at any time afterwards.

In faith whereof we, the respective Plenipotentiaries, have signed this convention, and have hereunto affixed our seals.

Done in duplicate at Washington this day of , in the year of our Lord 1890.

Sir J. Pouncefote to Mr. Blaine.

MAGNOLIA, MASSACHUSETTS, October 18th, 1890.

DEAR MR. BLAINE,—I am informed by Mr. Bond, the Colonial Secretary of Newfoundland, that at the interview which you were good enough to give him on the 7th instant you expressed the wish that I should send you a draft of a convention embodying the arrangement proposed by the Newfoundland Government.

I have much pleasure in complying with that request, and I beg to enclose the draft I have prepared, and which meets with Mr. Bond's concurrence. I shall be in Washington on the 25th, and I shall do myself the honour of calling at the State Department on the subject as soon as possible after my return.

I remain, &c.,

JULIAN PAUNCEFOTE.

No. 24.

Foreign Office to Colonial Office.

FOREIGN OFFICE, November 13th, 1890.

SIR,—with reference to my letter of the 4th instant, (No. 19), I am directed by the Marquis of Salisbury to transmit herewith a paraphrase of a Telegram from Sir J. Pauncefote, from which it appears that Mr. Blaine is anxious that Mr. Bond should return at once to Washington, in order to supply statistical information in connection with the proposed arrangement between the United States and Newfoundland.

I am, &c.,

P. W. CURRIE.

The Under Secretary of State,
Colonial Office.

(Enclosure in No. 24.)

Paraphrase of Telegram from Sir J. Pauncefote to Lord Salisbury.

WASHINGTON, November 12th, 1890.

I have been urged by Mr. Blaine to ask Mr. Bond, the Colonial Secretary, to return at once to Washington to furnish certain explanations and statistical information which are necessary in connection with the reciprocity arrangement proposed between the United States and Newfoundland. He considers that this step would be advantageous.

I informed him that I would submit his request to your Lordship and let him know your opinion as soon as I was able to do so.

No. 25.

*Lord Knutsford to Sir Terence O'Brien.**Telegraphic.*

November 14th, 1890. Blaine urges that Colonial Secretary should return at once to Washington to furnish information as to statistics and certain explanations which are necessary in connection with proposed Reciprocity Treaty. He considers that it would be advantageous to go immediately.

No. 26.

Sir Terence O'Brien to Lord Knutsford.

Received November 14, 1890.

Telegraphic.

Colonial Secretary will leave by first opportunity, not later than end of next week. Her Majesty's Minister has been informed.

No. 27.

*Lord Knutsford to Lord Stanley of Preston.**Telegraphic.*

(Extract.)

November 15th, 1890. Referring to my Telegram of the 4th instant (No. 20), following is substance of draft proposed convention between Newfoundland and United States:—

Article I. United States vessels to have privilege of purchasing bait in Newfoundland, same conditions as Newfoundland vessels, and to be allowed to touch and trade, sell their fish and oil, and procure supplies, paying same dues as Newfoundland vessels and conforming to harbour regulations.

Art. II. Facilities shall be given for recovery in United States Courts of penalties incurred under bonds by United States citizens.

Art. III. United States to admit duty free Newfoundland codfish, cod oil, seal oil, herrings, salmon, lobsters, &c., and crude produce of mines.

Art. IV. Convention to continue for ten years, and thereafter from year to year, subject to a year's notice. Convention ends.

No. 28.

Lord Stanley of Preston to Lord Knutsford.

Received November 19th, 1890.

Telegraphic.

(Extract.)

Have received your Telegram of 15th instant (No. 27). My Government view with the utmost alarm proposed convention between Newfoundland and the United States.

It affects fisheries interests of Canada as well as those of Newfoundland, and places fisheries and other products of Canada on a different footing from those of Newfoundland in United States markets.

Sanction of Newfoundland treaty by Her Majesty's Government would materially aid United States policy by placing Canada at disadvantage with neighbouring Colony of Newfoundland and producing discontent here.

Dominion Government respectfully remonstrate in strongest terms against signature of proposed convention at Washington. I will telegraph text of Council Minute when received.

No. 29.

Lord Knutsford to Lord Stanley of Preston.

Telegraphic.

(Extract.)

25th November, 1890. Your Telegram of 19th (No. 28) received. Her Majesty's Government greatly regret your Government should apprehend proposed separate arrangement between Newfoundland and United States will injure Canada, and would wish to have a full statement showing how it is apprehended that injury would, under the conditions of the case, result. Her Majesty's Government will delay Newfoundland convention so that both may proceed *pari passu*.

No. 30.

Sir Terence O'Brien to Lord Knutsford.

Received November 29th, 1890.

Telegraphic.

According to Telegram from Bond, British Minister at Washington unauthorized to affix signature to convention. My Government strongly request, as of great importance, necessary authority to be transmitted by telegram without delay. Anxious for reply to this Telegram; of greatest importance.

No. 31.

Sir Terence O'Brien to Lord Knutsford.

Received December 5th, 1890.

GOVERNMENT HOUSE,
ST. JOHN'S, NEWFOUNDLAND, November 21st, 1890.

MY LORD,—I have the honour to report that, in compliance with your telegraphic instructions (No. 25), my Colonial Secretary, the Hon. R. Bond, left to-day for Washington by the mail steamer which brought Sir W. V. Whiteway and the Hon. A. Harvey back to the colony.

I have, &c..

The Right Hon. Lord Knutsford,	G.C.M.G.,	T. O'BRIEN, Lieut.-Col.,
&c.,	&c.,	Governor.

No. 32.

Sir Terence O'Brien to Lord Knutsford.

Received December 9th, 1890.

Telegraphic.

Bond sends telegram from Washington that no authority has been received by British Ambassador to sign arrangement between United States of America and Newfoundland. My Ministers make urgent representations that proper authority may be given by telegram without delay. Great inconvenience caused by Bond's absence.

No. 33.

*Lord Knutsford to Sir Terence O'Brien.**Telegraphic.*

10th December, 1890. Referring to your telegrams of the 29th November and 8th instant (Nos. 30 and 32), Her Majesty's Government are not at present able to authorize Sir J. Pancefote to conclude the draft convention with the United States. They have never contemplated immediate action in this matter, as it is necessary to consider carefully how any convention may affect the fishery and other interests of the people of Canada.

No. 34.

Sir Terence O'Brien to Lord Knutsford.

Received December 12th, 1890.

Telegraphic.

12th December. Referring to your Lordship's telegram of the 10th instant (No. 33), my Ministers have unanimously passed the following Minute of Council: "On the 8th July the Newfoundland delegates proposed to Lord Knutsford that Newfoundland should be authorized to negotiate a convention with the United States of America, and it was distinctly stated that the interests of Newfoundland were not identical with those of Canada. Her Majesty's Government assented to this proposal on the 8th September, and with their approbation Mr. Bond left London for Washington. Having returned to Newfoundland he was directed by the Secretary

of State for the Colonies to proceed again to Washington, and then, for the first time, difficulties are raised, presumably by or on behalf of Canada, whose relations with the United States are not amicable. We decline being involved in Canadian disputes, and believe that Her Majesty's Government will not cause this colony to be so hampered, and thus add to the trading disabilities under which she suffers. We are surprised at this hostile action of Her Majesty's Government, which is calculated to defeat us in our struggle to open new markets, in the hope of securing thereby some relief from existing difficulties. We repudiate the interference of Canada, and our interests being made subservient to hers.

"We pray that Her Majesty's Government will reconsider the decision conveyed in Lord Knutsford's telegram of the 10th instant, and authorize the Minister at Washington to sign such convention as Mr. Bond concurs in for the advantage of this colony, disregarding the outside influences."

No. 35.

Lord Knutsford to Sir Terence O'Brien.

Telegraphic.

18th December, 1890. Referring to your telegram of the 12th instant (No. 34), you should remind your Ministers that, although Newfoundland may not desire to be concerned in Canadian questions, it is the duty of Her Majesty's Government, as I pointed out in my telegram of the 10th instant (No. 33), to consider what would be the effect upon other British interests of any proposals made exclusively in interests of Newfoundland. In the present case there would appear to be comparatively little inconvenience in such full consideration of the draft convention, as it must be some months before, on the reopening of the fisheries, it could come into practical operation.

No. 36.

Foreign Office to Colonial Office.

FOREIGN OFFICE, December 18th, 1890.

SIR,—I am directed by the Marquis of Salisbury to transmit, for Secretary Lord Knutsford's information, a paraphrase of a telegram from Her Majesty's Minister at Washington, reporting that Mr. Bond has been informed by the United States Secretary of State that he is prepared to accept a modification of the proposed arrangement for the improvement of commercial relations between the United States and Newfoundland.

Sir J. Pauncefote also states that Mr. Bond has left Washington on his return to the colony.

I am, &c.,
T. H. SANDERSON.

The Under Secretary of State, Colonial Office.

[Enclosure in No. 36.]

Paraphrase of Telegram from Sir J. Pauncefote of December 17th, 1890.

I have been informed by Mr. Blaine that he does not wish to detain Mr. Bond any longer with regard to the Newfoundland negotiations, but that he would like to have another interview with him before he leaves.

Mr. Bond, having called on him by appointment, tells me that Mr. Blaine is willing to accept a modified arrangement which would be very satisfactory to Newfoundland.

He left Washington for the Colony last night.

The substance of any communication which may be made to me by Mr. Blaine shall be telegraphed to your Lordship.

No. 37.

Sir Terence O'Brien to Lord Knutsford.

Received December 22nd, 1890.

Telegraphic.

In reply to your telegram of the 18th December (No. 35), my Ministers, notwithstanding my strong representations, have unanimously passed the following Minute of Council:—

“We refer to our telegram of the 12th December (No. 34) as an answer to the Secretary of State for the Colonies message of the 18th instant (No. 35), that Newfoundland is not concerned in Canadian questions, and it is unjust that Her Majesty's Government should lend its aid to involve this Colony in the embittered controversies existing between Canada and the United States. Indirectly, Newfoundland has already suffered. Her Majesty's Government concurred in our separate negotiations, and we now appeal for the fulfilment of its undertaking. We emphatically protest against our arrangement being imperilled by the introduction of questions connected with Canada. Her Majesty's Government are in error as to the time when the arrangement with the United States would come into practical operation. The present is the season for exporting the products of this Colony, and the only season for exporting frozen herrings. Every day's delay in signing the arrangement is a loss to the Colony.”

No. 38.

Lord Stanley of Preston to Lord Knutsford.

Received 29th December, 1890.

GOVERNMENT HOUSE, OTTAWA, December 13th, 1890.

MY LORD,—I have the honour to transmit to your Lordship a copy of an approved Minute of the Privy Council on the subject of the recent negotiations between a Delegate from the Government of Newfoundland and the Administration of the United States for a convention relating to the fisheries and commerce of those two countries.

This Minute of Council is substituted for the one referred to in my telegram to you of the 18th November (No. 28).

I have, &c.,
STANLEY OF PRESTON.

The Right Hon. Lord KNUTSFORD,
&c., &c., &c.

[Enclosure in No. 38.]

CERTIFIED COPY of a Report of a Committee of the Honourable the Privy Council, approved by His Excellency the Governor-General in Council on the 12th December, 1890.

The Committee of the Privy Council have had under consideration a Report herewith attached, dated the 9th December, 1890, from the Sub-Committee of Council, to whom was referred a letter from the High Commissioner for Canada, dated the 31st October, 1890, on the subject of the recent negotiations between a delegate from the Government of Newfoundland and the Administration of the United States, for a convention relating to the fisheries and commerce between the Colony of Newfoundland and the United States.

The Committee, concurring in the Report, recommend the same for Your Excellency's approval.

JOHN J. MCGEE, Clerk Privy Council.

REPORT.

(Extract.)

To His Excellency the Governor-General in Council.

The undersigned have had referred to them a letter from the High Commissioner for Canada, dated the 31st October, 1890, on the subject of the recent negotiations between a delegate from the Government of Newfoundland and the Administration of the United States for a convention relating to the fisheries and commerce between the Colony of Newfoundland and the United States.

The High Commissioner had been informed by telegram from your Excellency's First Minister, that the Honourable Mr. Bond, a member of the Newfoundland Government, was at Washington, and seemed to have announced that he had authority from the Imperial Government to make a separate fishery treaty for his Government, and the High Commissioner was asked to ascertain the truth and enter protest. He was referred to the New York and Boston papers, which contained the information referred to.

The High Commissioner wrote to Sir Robert Herbert on the 22nd of October, intimating that he had received such a telegram from the Premier of Canada, and on the 23rd October, Mr. Bramston addressed the High Commissioner, in reply, as follows:—

"I am directed by Lord Knutsford to acquaint you that a telegram, dated the 6th instant, has been received from Her Majesty's Minister at Washington by the Secretary of State for Foreign Affairs, of which the following is the purport:

"With reference to your despatch of the 10th ultimo, introducing Mr. Bond, I have presented that gentleman to Mr. Secretary Blaine, and negotiations are now going on with a view to an independent arrangement between the United States and Newfoundland relating to the fisheries. Before negotiations go further, I would suggest that the Government of Canada might be informed of them, as they might wish to negotiate on the same lines as regards New Brunswick and Nova Scotia."

The High Commissioner, in a letter to the Right Honourable Lord Knutsford, Her Majesty's Principal Secretary of State for the Colonies, dated the 27th October, set forth the telegram he had received from the First Minister of Canada and the letter from Mr. Bramston, and followed with certain observations, thus:—

"I believe I am right in saying that, in reference to the question of the Atlantic and North American fisheries, Her Majesty's Government has hitherto invariably recognized the importance of obtaining unity of action, as far as was possible, on the part of all the colonies interested. In the treaty of reciprocity with the United States, in 1854, the consent of Newfoundland, as well as the various Provinces of Canada, was made necessary to its going into operation, and the same course was followed, subsequent to Confederation, in reference to the Treaties of 1871 and 1888.

"I learn with deep regret that this obviously sound policy has not only been departed from, but that while Newfoundland has on previous occasions been fully advised as to the negotiations that were to be undertaken, Her Majesty's Government have, without any intimation to Canada of what was proposed, authorized, so long ago as the 10th September, Newfoundland to open negotiations for a separate treaty with the United States, and that the first communication to Canada is a suggestion from Sir J. Paucefote not to include Canada in the proposed arrangement, but that the Government of Canada might be informed of them, as they might wish to negotiate on the same lines as regards New Brunswick and Nova Scotia, *i. e.*, for a treaty independent of the other Provinces of Canada.

"I should fail in my duty to the Crown as well as to Canada if I did not promptly assure your Lordship that I feel confident the difficulties of the vexed question of the British North American fisheries will be greatly increased by the wide departure that is now proposed from the long-established policy that has hitherto prevailed upon this very important question."

The High Commissioner having communicated to the First Minister the despatch from Mr. Bramston of the 23rd October above set forth, a telegram was sent to him by the First Minister as follows:—

"Can scarcely believe Newfoundland has received authority from Imperial Government to make separate arrangements respecting fisheries. The relations of all the North American Provinces to the United States and to the Empire would be affected. We are not informed of powers given to Bond, and desire communication of them. Please represent strongly how the fishery and commercial interests of Canada will be injured by such an arrangement as Bond is currently reported as making, and how disastrous, from a national point of view, it would be for a separate Colony to effect an arrangement with the United States more favourable than would be given to the Confederated Provinces. Our difficulties under the new American Tariff are sufficiently great now."

Your Excellency was, on the same day, moved to request from Lord Knutsford communication of the authority possessed by Mr. Bond, and likewise to urge that no arrangement be concluded until your Government should be informed of the nature thereof, and unless Canada should be given an opportunity to be included therein if she should so desire.

It appears also that the High Commissioner waited on Lord Knutsford personally, and expressed at large the views which are indicated in his letter of the 27th October.

About the 15th November last, it transpired that a draft convention between Newfoundland and the United States of America had been prepared in the following terms:—

"ARTICLE I.

"United States vessels to have privilege of purchasing bait in Newfoundland on the same conditions as Newfoundland vessels, and to be allowed to touch and trade, sell their fish and oil, and procure supplies, paying same dues as Newfoundland vessels, and conforming to the harbour regulations.

"ARTICLE II.

"Facilities shall be given for recovering in United States Courts of the penalties incurred under bonds by United States citizens.

"ARTICLE III.

"United States admit, duty free, Newfoundland codfish, cod oil, seal, and herrings, salmon, lobsters, &c., and crude produce of mines.

"ARTICLE IV.

"Convention to continue for ten years and thereafter from year to year, subject to a year's notice."

It may be necessary at this stage to call the attention of your Excellency and of Her Majesty's Principal Secretary of State for the Colonies to sum up the grounds on which your Excellency's advisers feel bound to remonstrate against the separate arrangement being made between the United States and one of the British North American Provinces to the exclusion of the others, relating to the fisheries and commerce.

From the earliest period in the history of the North American Fishery question down to the opening of the negotiations with Mr. Bond, Her Majesty's Government has invariably recognized the fact that the interests of all her possessions in British North America with regard to the fisheries were bound up together, and could only be properly dealt with on a basis common to all.

This view has prevailed at every step in the diplomacy and in administration, the two great points on which the Atlantic Fishery question has always turned being the competition in fishing between British subjects and foreigners, and the question of access to the markets of the United States for sale of the fish caught by British subjects.

In early times the negotiations which took place between Great Britain and foreign countries concerning the fisheries had chiefly in view the bank fisheries off

the coast of Newfoundland, the prosecution of which was immensely facilitated by the obtaining of supplies and outfits in the Island of Newfoundland and on the coast of some of the provinces now forming part of Canada. These fisheries, with that adjunct, were regarded as the principal object to be secured and established in any arrangement made by Great Britain and the great object aimed at by the United States and France.

By the treaty of 1778 between France and the United States (Article X) provision for the fishery rights on the banks of Newfoundland were stipulated for by France and guaranteed by the United States.

The United States took care to stipulate for the enjoyment of these fisheries by the treaty of 1783.

It was to establish the successful prosecution of these fisheries by her people that France incurred such enormous expenditures in fortifying Louisburg and in retaining possessions in North America, and that the New England Colonies, by two successive expeditions, accomplished the capture of Louisburg, and thereby achieved a success which was described as having counterbalanced all the disasters which had fallen upon the British arms in Europe.

It was with the same view that Lord North in 1775 introduced his Bill to prevent the inhabitants of the New England States from fishing on the banks, although it has now long since been conceded that these fisheries themselves are open to all nations.

The III Article of the Treaty of Paris (1783) dealt in a single paragraph with "*such part of the coast of Newfoundland as British fishermen use, and also the coasts, bays, and creeks of all His Britannic Majesty's dominions in America.*"

When the treaty of Ghent was being negotiated, in 1814, the bank fisheries were being extensively prosecuted by both American and Colonial fishermen. The Americans, however, adopted the policy, which they will doubtless presently revive (if such a convention as that proposed be adopted), of granting a bounty to aid their own fishermen and establishing customs duties against all others.

From 1815 to 1818 the bounty paid in the United States to fishermen rose from 1,811 dollars to 149,000 dollars, and after the convention of 1818 it continued to rise, until, in 1838, it was upwards of 314,000 dollars.

On the 17th June, 1815, Lord Bathurst conveyed to Vice-Admiral Sir Richard G. Keats the command of His Royal Highness the Prince Regent, that while he was to abstain from interfering with the fisheries in which the subjects of the United States might be engaged, either on the grand banks, the Gulf of St. Lawrence, or other places in the sea, he should "*exclude their fishing-vessels from the bays, harbours, creeks, and inlets of His Majesty's possessions.*" His Lordship, in writing to the Governor of Newfoundland, said, "*The subjects of the United States can have no pretence to any right to fish within British jurisdiction, or to use the British territory for purposes connected with the fisheries.*"

When the treaty of 1818 was made, although a special privilege was given to United States fishermen of fishing on certain parts of the coast of Newfoundland, of the Magdalen Islands, and of Labrador, in all other respects the fishermen of all the British Provinces received the same protection, and its provisions were made in the interests of all alike, especially those by which United States fishing-vessels were prohibited from entering the bays and harbours of British North America to obtain facilities in the prosecution of the fisheries.

The Imperial Statute of 1819, which was passed to make this treaty effective (59 Geo. III, cap. 38), as well as all the Acts passed for the same purpose in the British North American Provinces, followed the same principle, and were uniform as to their substance and spirit.

The treaty of Reciprocity of the 5th June, 1854, made provisions as to the fisheries and commerce which were common to all the Provinces. The rights which it gave to United States fishermen were rights in all the fisheries of British North America, and the commercial concessions made by the United States were made in favour of all the British North American Provinces which were willing to accept them.

In the Washington treaty of 1871, although Canada was represented among Her Majesty's Plenipotentiaries and Newfoundland not represented, there was an express provision, by Article XXXII, that the treaty provisions relating to the fisheries and commerce which applied to Canada and Prince Edward Island, should extend to the Colony of Newfoundland, so far as applicable.

The Washington treaty of 1888 included Canada and Newfoundland under one provision, although, as before, Her Majesty's Commission to her Plenipotentiaries did not include a Representative from the Colony of Newfoundland, but included a Representative from Canada.

The *modus vivendi* attached to the treaty was common to both Canada and Newfoundland, and, until the fishing season of 1890, was kept in force by both countries; the licences issued to American fishermen by Canada being recognized in Newfoundland, and those issued in Newfoundland being recognized in Canada.

On at least two occasions there were strong expressions from Her Majesty's Government to indicate that any policy not common to all the British North American Provinces would not receive the approval of that Government.

The first of these instances occurred in 1868. A Committee of the House of Representatives at Washington was appointed in that year, "to inquire and report at the next session of Congress the fullest and most reliable information they could obtain in regard to the Colony of Prince Edward Island, including particularly whatever could be ascertained as to the kind and amount of imports and exports to and from the island, and the views and disposition, as well as authority, of the Colonial Government, to enter into any particular or exceptional arrangement or agreement, by legislative enactment, with the United States, conceding and securing such privileges as to fisheries on the coast as were contemplated" in a Resolution which had been referred to the Committee of Ways and Means for their Report, which Resolution looked in the direction of free trade between Prince Edward Island and the United States as a Return for fishing under a nominal licence fee, on the coast of the island, and for the right of American fishing vessels to enter for shelter, or to obtain supplies and to refit free of duty or impost.

The Committee of the House of Representatives proceeded to Prince Edward Island in the summer of 1868, and had a conference with the Executive Council of that Province on the subject of the Resolution. Certain propositions were made by the Congressional Committee, and were favoured by the Executive Council with slight modifications. The Executive Council made a favourable Report on the subject of the Conference, expressing hope that Her Majesty's Government would feel favourable to the propositions, although they related to Prince Edward Island only.

The Lieutenant-Governor, on the 27th August, 1868, communicated to the Duke of Buckingham and Chandos the Memorandum of his Council, and informed his Grace at the same time that he had "thought it right to express clearly, in writing to his Council, that a Colonial Government had no authority whatever to enter into any particular or exceptional arrangement or agreement with a foreign Power."

On the 30th September, 1868, the Duke of Buckingham and Chandos acknowledged the receipt of the Despatch from the Lieutenant-Governor which inclosed the Memorandum sent to him by his advisers, and stated that Her Majesty's Government entirely approved of the answer which the Lieutenant-Governor had made to his Council. Here the matter ended.

Another instance occurred in July, 1887, when the American Minister at the Court of St. James communicated to Sir Ambrose Shea that, "should the Government of Newfoundland see fit to give notice that American fishermen be admitted to the ports of that Province for the purpose of obtaining supplies, the proposal would be cordially accepted and acted on by the Government of the United States. Her Majesty's Principal Secretary of State for the Colonies informed the Officer Administering the Government of Newfoundland, that no separate action should be attempted by the Newfoundland Government, in the direction suggested, without full previous communication with Her Majesty's Government."

These Documents were transmitted to your Excellency's predecessor. In the end, the attempt to negotiate a separate arrangement between the United States and Newfoundland was abandoned, and negotiations were opened with Her Majesty's Government on behalf of Newfoundland and Canada. This resulted in the Washington treaty of 1888, which was only defeated by want of concurrence on the part of the Senate of the United States. Since that time, the Governments of Newfoundland and Canada have acted in concert.

The Government of Newfoundland has repeatedly recognized the force of the view here contended for.

In an address to Her Majesty's Principal Secretary of State for the Colonies from the Legislative Council and House of Assembly in Newfoundland, dated the 18th May, 1886, after referring to the fact that the British fishermen engaged in the prosecution of the cod fisheries had great advantages over American fishermen under the convention of 1818, and after stating further that the United States had abrogated the treaty of Washington and renewed the impost on fishery products of British Colonies, the following expression, which may now be aptly applied to the prospects of the Canadian fishermen if a separate arrangement should be made for Newfoundland, was used:—

“ If we supinely assent to this course, we shall provide these (our rivals) with the means of shutting us entirely out of the United States markets.”

In a despatch dated the 14th January, 1887, from Governor Sir G. Des Vœux to Mr. Stanhope, the former well described the position in which Newfoundland fishermen would be placed if obliged to furnish bait to foreign fishermen who would be in competition with them in the markets of the foreign country, while these markets were practically closed to the products of British fisheries. He says: “ It is evident that Newfoundland is thus furnishing the means of its own destruction.”

Further on, in the same Despatch, the writer states: “ I have very good reasons for believing that, as regards the United States, the right of obtaining bait would be restored on the opening of the American markets to Newfoundland fish, or (if common cause be made with Canada) to all British fish.”

Referring in a subsequent passage to the Canadian Statute passed in 1887 for the enforcement of the treaty of 1818 by the exclusion of American fishing vessels, except for the purposes for which they were allowed to enter, under the convention of 1818, his Excellency said: “ I may mention, as probably having escaped notice, that this object will, to a large extent, fail to be secured if a similar measure in this Colony should not be enforced, as it is not impossible that the Americans could afford to disregard the prohibition of bait supply on the Canadian coast if they were assured of being able to procure the bait they require on the coast of Newfoundland. The interests of Canada and of this Colony being thus to this extent identical, it is not difficult to foresee that any further delay in the allowance of the bill would give rise to the strongest pressure on the part of the Canadian Government.”

In a letter from Sir Robert Thorburn, Premier of Newfoundland, to Her Majesty's Principal Secretary of State for the Colonies, dated 27th April, 1887, on the subject of the Newfoundland Bait Act and of the remonstrance of Canada against the same, which has been put forward on a supposition that Canadian fishermen would be put in the position of foreign fishermen by that Act, in being obliged to pay for licences, Sir Robert Thorburn said that the inference drawn by Sir G. W. Des Vœux in his Despatch relative to the Bait Bill, that Canada would suffer from its disallowance, inasmuch as American and other foreign fishermen would continue to procure their bait supplies in Newfoundland waters, particularly if excluded from this privilege in Canadian waters, seemed a perfectly clear conclusion, and served practically to illustrate the desirability of British fishermen retaining the undivided control of so important an element as the bait supply, giving them vantage ground over their bounty-sustained rivals.

When the Arbitration took place at Halifax to settle the compensation to be paid by the United States under the treaty of Washington, the British case was

presented by an agent of Her Majesty's Government, in consultation with counsel from Newfoundland as well as from the Provinces of Canada.

The following is an extract from that case which will serve to indicate the value of the privileges which were supposed to be accorded to United States fishermen by the treaty of 1871, of procuring bait and of making Newfoundland the basis of operations, while the disadvantages to Newfoundland fishermen which are there set forth affect equally Canadian fishermen who pursue their vocation in the bank and deep sea fisheries :--

" Apart from the immense value to the United States fishermen of participation in Newfoundland inshore fisheries must be estimated the important privilege of procuring bait for the prosecution of the bank and deep sea fisheries, which are capable of unlimited expansion. With Newfoundland as a basis of operations, the right of procuring bait, refitting their vessels, drying and curing fish, procuring ice in abundance for the preservation of bait, liberty of transshipping their cargoes, &c., and almost continuous prosecution of the bank fisheries secured to them. By means of these advantages, United States fishermen have acquired, by the treaty of Washington, all the requisite facilities for increasing their fishing operations to such an extent as to enable them to supply the demand for fish food in the United States markets, and largely furnish the other fish markets of the world, and thereby exercise a competition which must inevitably prejudice Newfoundland exporters. . . .

" Not only are the United States fishermen almost entirely dependent on the bait supply from Newfoundland, now open to them, for the successful prosecution of the bank fisheries, but they are enabled, through the privileges conceded to them by the treaty of Washington, to largely increase the number of their trips, and thus considerably augment the profits of the enterprise."

Attention may now be called to the action of the United States Administration in the present year.

By the adoption of the tariff measure which is popularly known as the "McKinley Act," the customs duties of the United States are greatly increased on nearly all Canadian products (including fresh fish, unless caught in vessels or by nets owned by American citizens). While this measure is in force, and is avowed to be designed to teach Canadians that they cannot avail themselves of the markets of the United States while they continue their allegiance as British subjects, a separate arrangement with Newfoundland would practically dissolve the protection given by the treaty of 1818, by enabling American fishing-vessels to have access to the ports of Newfoundland as a base of supplies and for the purpose of transshipping their cargoes. The protection afforded by that treaty for upwards of seventy years would thus be taken away from Canadian fishermen and Newfoundland fishermen alike, but there would be special compensation to the fishermen of Newfoundland in the shape of removal of duties, while the Canadian fishermen would be made to pay enhanced duties under the new American tariff. While this would, perhaps, be the most effectual method of impressing on the minds of the Canadian people the lesson that they cannot be British subjects and enjoy American markets, Her Majesty's Government can hardly, on reflection, feel surprised that your Excellency's Government have not for a moment believed that Her Majesty's Ministers would co-operate with the authorities of the United States in inculcating such a lesson at the present time.

The subject has also to be viewed to some extent in connection with the question of the confederation of the Provinces. The union which was effected, in accordance with the strong desire of Her Majesty's Government, in 1867, has always been viewed with unfriendly feelings by a large portion of the people in the United States, who continue, with great reason, to regard it as a means of consolidating British power in North America. The Confederation Provinces, at great sacrifices, have striven to accomplish that object; they have made progress in the direction of its accomplishment, of which they feel some pride, but they are now threatened with being placed in a worse position, as regards some of the most important interests of their commerce, than the one colony in British North America which has remained outside of the Union.

The Administration of the United States has long been aware that the Government of Canada is willing to enlarge the trade relations between the two countries by a system of reciprocity. That intention has so often been announced, in offers from the Canadian Government, in proposals put forward by negotiations, in Customs legislation and in public declarations of responsible Ministers, that the authorities of the United States have from time to time resented what has been considered the importunity of Canada in this regard. Her representatives have often reproached Canada with being unable to maintain existence without reciprocity, and asserted that the livelihood of her people is dependent on Tariff concessions from the United States. Canada has been constantly accused, by public men in the United States, of adopting a severe policy in asserting her fishery rights in order to force negotiations for the extension of trade.

Her Majesty's Principal Secretary of State for the Colonies may, perhaps, with propriety, be reminded, on this occasion, that the complaint constantly put forward against Canada in the United States is, that Canada denies hospitality in her ports to American vessels, which is not denied to Canadian vessels in United States ports. When the treaty of 1818 was negotiated the abstention by American fishing-vessels from using British ports, except for shelter, repairs, wood, and water, was conceded by the United States negotiators in return for the right to fish in-shore on parts of the coasts of Newfoundland and Labrador, and on all the coasts of the Magdalen Islands. This privilege, so rarely accorded by the people of one country to the people of another, was boasted of by the American negotiators, after the treaty of 1818 was signed, as having secured to the United States the most valuable fisheries on the British American coast.

The people of the United States have made no proposal to relinquish that benefit, but they complain that the concession by which it was purchased should be enforced.

It seems necessary also to remind Her Majesty's Principal Secretary of State for the Colonies of the peculiar position in which British and Canadian fishing interests will be placed by such a convention as that proposed, in view of the Bait Act of Newfoundland. Under that Act and the regulations made by the Government of Newfoundland, under powers conferred on them by it, no fishing-vessel can enter the ports or harbours of Newfoundland to obtain bait without a licence, which can only be obtained under very onerous restrictions, which exact, among other things, a very heavy licence fee. His Lordship will remember that that Act was only allowed by Her Majesty's Government to go into operation after the most distinct written pledges given by members of the Newfoundland Government and by its Representatives that no licence fee would be exacted from Canadian fishermen. During the fishing season of last year that pledge was not observed, and the same fee which was charged to foreign vessels was exacted from Canadian fishermen. His Lordship will remember that the attention of Her Majesty's Government has already been drawn to this subject by Minute of Council of your Government; and that, on a subsequent occasion, in the month of August last, the High Commissioner for Canada and the Minister of Justice had an interview with his Lordship, in the presence of two delegates from the Newfoundland Government, in which, on behalf of Canada, this whole subject was presented again, and in the course of which his Lordship was good enough to urge upon the delegates from Newfoundland that their Government should keep faith, when that faith had been so distinctly pledged. The delegates from the Newfoundland Government present at that time professed ignorance of the pledges which had been given until they had communication of them in London; but they assured his Lordship that the attention of their Government would be given to the matter immediately, with a view and desire to carry out the promises which had been made. The fulfilment of this renewed promise and the exemption of Canadian fishermen from the provisions of the Bait Act would not lessen any of the objections which have been stated in this report; but it seems necessary to remind Her Majesty's Principal Secretary of State for the Colonies that if this promise should still go unfulfilled, and the draft convention be adopted, the singular case would be

presented of one colony of the empire admitting foreign vessels to privileges in her ports and excluding the vessels of the neighbouring colonies as well as of the mother country from the like privileges.

Respectfully submitted,

JNO. S. D. THOMPSON,

Minister of Justice.

CHARLES H. TUPPER,

Minister of Marine and Fisheries.

OTTAWA, 9th December, 1890.

— — —
No. 39.

Sir Terence O'Brien to Lord Knutsford.

Received 29th December, 1890.

Telegraphic.

The Colonial Secretary has returned from Washington, and has brought with him a copy of the convention which has been arranged with the United States. My Ministers approve of this convention, which has been referred to in the former telegrams which have passed on this subject; and they assume that there is now no obstacle to its immediate signature, thus carrying out the undertaking of Her Majesty's Government that this colony might enter into a separate arrangement with the United States.

Delay in concluding the convention is seriously prejudicial to the trade relations between this colony and the United States, and public opinion is strongly agitated upon the subject.

Ministers therefore pray that immediate instructions be given to Her Majesty's Minister at Washington to sign the convention, and they anxiously await a speedy reply.

— — —
No. 40.

Lord Knutsford to Sir Terence O'Brien.

Telegraphic.

(Extract.)

1st January, 1891.

Received your telegram of 29th December (No. 39). Information required by telegraph as to modifications of convention conceded to United States Government.

— — —
No. 41.

Sir Terence O'Brien to Lord Knutsford.

Received 3rd January, 1891.

Telegraphic.

(Extract.)

Referring to your telegram of 1st January (No. 40). Executive Council do not understand meaning of modifications, and they cannot suppose that Her Majesty's Government will intervene objections.

— — —
No. 42.

Foreign Office to Colonial Office.

FOREIGN OFFICE, 7th January, 1891.

SIR,—With reference to my letter of the 18th ultimo (No. 36), I am directed by the Marquis of Salisbury to transmit herewith, to be laid before Secretary Lord

Knutsford, a paraphrase of a telegram from Her Majesty's Minister at Washington, reporting the substance of a counter-draft which has been communicated to him by Mr. Blaine for an arrangement of trade and fishery questions between the United States and Newfoundland.

The Under Secretary of State,
Colonial Office.

I am, &c.,
T. V. LISTER.

[Enclosure in No. 42.]

Paraphrase of a Telegram from Sir J. Pauncefote.

WASHINGTON, 6th January, 1891.

With reference to my telegram of the 17th ultimo (enclosure in No. 36), on the subject of the negotiations with the United States Government in regard to Newfoundland, I have the honour to report to your Lordship that, at an interview which I had yesterday with the Secretary of State in consequence of an invitation from him, Mr. Blaine communicated to me a counter-draft, which, he stated, the United States Government would not be unwilling to accept, although they were not anxious for the arrangement.

Mr. Blaine's counter-draft is confined to the free admission of fish as against the free purchase of bait, and to insuring that the existing tariff on certain American imports shall remain in force, and that the benefit of any diminution shall be secured. Crude minerals are struck out of the list of articles named in the counter-draft.

I am sending home by to-day's mail a copy of the counter-draft and a report of my interview with Mr. Blaine.

—
No. 43.

Lord Knutsford to Sir Terence O'Brien.

Telegraphic.

13th January, 1891.

With reference to your telegram of 3rd January (No. 41), Mr. Blaine on 6th January communicated to Her Majesty's Minister at Washington a counter-draft of a convention between Newfoundland and the United States, which he said his Government would accept, though they were not anxious for the arrangement.

The draft is confined to the free admission of fish, with the exception of green codfish, in return for the free purchase of bait; and to securing that the existing Newfoundland duties and free list shall remain in force as to certain American imports; and that the United States shall have the benefit of any diminution of duties on such articles. Crude minerals have been struck out.

Her Majesty's Government will await the report on the arrangement and the copy counter-draft now on the way from Sir J. Pauncefote, before considering the question further.

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No. 44.

Colonial Office to Foreign Office.

DOWNING STREET, 13th January, 1891.

SIR,—I am directed by Lord Knutsford to request that Sir J. Pauncefote may be desired by telegraph to send direct to Newfoundland, as soon as possible, a copy of the counter-draft, handed to him by Mr. Blaine.

The Under Secretary of State,
Foreign Office.

I am, &c.,
ROBERT G. W. HERBERT.

No. 45.

Foreign Office to Colonial Office.

FOREIGN OFFICE, 14th January, 1891.

SIR,—In reply to your letter of yesterday (No. 44), I am directed by the Marquis of Salisbury to state that, in compliance with Lord Knutsford's wishes, Her Majesty's Minister at Washington has been instructed by telegraph at once to communicate to the Government of Newfoundland a copy of the counter-draft convention handed to him by Mr. Blaine.

He has also been requested to furnish a copy of the same document to the Canadian Government.

I am, &c.,

T. H. SANDERSON.

The Under Secretary of State,
Colonial Office.

No. 46.

Sir Terence O'Brien to Lord Knutsford.

Received 17th January, 1891.

Telegraphic.

Referring to your telegram of the 13th January (No. 43). My Government request me to forward to your Lordship the following telegram:—My Ministers have received with profound regret the intimation of Her Majesty's Government that crude minerals have been struck out of the convention agreed to between the United States Government and Mr. Bond, and this great misfortune can only be attributed to the unaccountable delay on the part of Her Majesty's Government in signing the draft convention. Her Majesty's Government are in error in supposing that the counter-draft convention was communicated to Minister at Washington for the first time on the 6th January. The said counter-draft was communicated to British Minister by Mr. Blaine, through Mr. Bond, on the 16th December, and my Colonial Secretary was authorized by Mr. Blaine, and did inform British Minister, that Mr. Blaine was prepared to sign immediately. There was at first a special condition attached to minerals definition, but that condition was fulfilled, and an assurance was given by Mr. Blaine that he would agree to the insertion of the same. The delay that has occurred has afforded time for opposition to be aroused in Western States, and doubtless Mr. Blaine now finds himself compelled to strike out the definition. This means a very serious loss to the colony, and it is with deep regret that my Ministers must attribute it to the incomprehensible delay of Her Majesty's Government. My Government are fully aware of the interference of Canada in this matter, and they look upon same, as it has apparently met with the approval of Her Majesty's Government, as a menace to the independence of this colony. They again respectfully but firmly protest against the affairs of this colony being in any way subject to the approval or disapproval of the Canadian Government. They would repeat that Canadian interests are not similar to those of this colony, which was the reason given to Her Majesty's Government for separate negotiations by this colony and the grounds upon which Her Majesty's Government assented. My Government are aware that the United States Government are not anxious to enter into a reciprocity treaty with this colony, and Mr. Bond found it necessary to elicit the sympathy of the great commercial centres of New York and Boston before he succeeded in accomplishing the object of his mission. This lack of anxiety on the part of United States Government emphasizes the necessity for speedy action on the part of Her Majesty's Government if the desire of this colony is to be accomplished. The receipt of your Lordship's telegram has postponed a crisis in reference to this mat-

ter, and my Government would now respectfully but firmly urge upon Her Majesty's Government the necessity for speedy action. Further delay may mean the total withdrawal by the United States Government of the counter-draft, and a collapse of this business after its having been arranged to the satisfaction of this colony. Such a calamity will doubtless intensify the feeling caused by grievous injustice to which this colony has been so long subjected.

No. 47.

Sir J. Pouncefote to the Marquis of Salisbury.

WASHINGTON, 26th December, 1890.

MY LORD,—In my telegram of the 17th instant (enclosure in No. 36) I reported the departure from Washington of Mr. Bond, the Colonial Secretary of Newfoundland. The first interview with Mr. Blaine took place on the 29th ultimo. I was present, at the request of Mr. Blaine, and the conversation was confined to statistical information supplied by Mr. Bond.

On taking our leave Mr. Blaine said he would be glad to see us in a day or two, and would make an appointment for the purpose. But although I twice reminded him of his promise, we heard no more from him for a fortnight, after which time Mr. Bond became impatient, and, with his approval, I asked Mr. Blaine whether he thought it necessary to detain him any longer.

Mr. Blaine replied in the negative, but begged me to ask Mr. Bond to call on him at his house before his departure, and appointed Monday morning, the 15th. Mr. Blaine said nothing about my coming also, and I understood that the object of the visit was only to wish Mr. Bond good-bye.

Mr. Bond called on me on the 16th and informed me, somewhat to my surprise, that he had had several long interviews with Mr. Blaine, which had resulted in the remodelling of the draft convention originally prepared by me, and he handed me a copy of a new draft, which he said would be most acceptable to Newfoundland, and which Mr. Blaine was prepared to accept also.

He was not sure, however, whether the words interpolated in Article II of the draft, namely, "and crude copper ores the product of Newfoundland mines," would be allowed to stand, but he was to see some members of the Chamber of Commerce of Boston on his way home, and would communicate with me further by telegram on the subject. I told Mr. Bond that I would keep the draft for reference in case Mr. Blaine should make any proposal to me founded upon it, but that I could take no cognizance of anything that might have passed between him and Mr. Blaine by way of negotiation in my absence. This Mr. Bond readily admitted, but said he had no doubt that Mr. Blaine would communicate the draft to me as a counter-proposal. I replied that in that case all I could do would be to transmit Mr. Blaine's communication to your Lordship. Mr. Bond dwelt very much on the hardship that would be inflicted on the colony by any delay in accepting Mr. Blaine's proposal, and on the exasperation which would be produced there by the refusal of Her Majesty's Government to grant this measure of relief to the sorely-tried colonists.

I explained to him that I had no power to move further in the matter, and he left for Halifax, on his way back to Newfoundland, on the same evening.

On the 18th Mr. Bond telegraphed to me from Boston as follows: "Please insert copper clause in Article II."

Mr. Blaine mentioned incidentally a few days ago that he would be glad to have a talk with me by-and-bye about Newfoundland, but that is all I have heard from him up to this date on the subject.

I enclose a copy of the draft handed to me by Mr. Bond, and which he stated had been virtually agreed to between Mr. Blaine and himself.

I have, &c.,

JULIAN PAUNCEFOTE.

The Marquis of Salisbury, K.G.,
&c., &c., &c.

[Enclosure in No. 47.]

DRAFT CONVENTION between Great Britain and the United States of America for the Improvement of Commercial Relations between the United States and Her Britannic Majesty's Colony of Newfoundland.—(Received at the Foreign Office through Sir J. Pouncefote, 7th January.)

The Governments of Great Britain and of the United States, desiring to improve the commercial relations between the United States and Her Britannic Majesty's Colony of Newfoundland, have appointed as their respective plenipotentiaries, and given them full powers to treat of and conclude such convention, that is to say :

Her Britannic Majesty on her part has appointed Sir Julian Pouncefote, and the President of the United States has appointed, on the part of the United States, James G. Blaine, Secretary of State.

And the said plenipotentiaries, after having exchanged their full powers, which were found to be in due and proper form, have agreed to and concluded the following Articles :—

ARTICLE I.

United States fishing vessels entering the waters of Newfoundland shall have the privilege of purchasing herring, caplin, squid and other bait fishes at all times, on the same terms and conditions, and subject to the same penalties, in all respects, as Newfoundland vessels.

They shall also have the privilege of touching and trading, selling fish and oil, and procuring supplies in Newfoundland, conforming to the harbour regulations, but without other charge than the payment of such light, harbour, and Customs dues as are or may be levied on Newfoundland fishing vessels.

ARTICLE II.

Dry codfish, cod oil, seal oil, sealskins, herrings, salmon, trout, and salmon trout, lobsters, cod roes, tongues, and sounds, the product of the fisheries of Newfoundland, and crude copper ores, the product of Newfoundland mines, shall be admitted into the United States free of duty. Also all packages in which the said fish may be exported shall be admitted free of duty. It is understood, however, that "green" codfish are not included in the provisions of this Article.

ARTICLE III.

The officer of Customs at the Newfoundland port where the vessel clears shall give to the master of the vessel a sworn certificate that the fish shipped were taken in the waters of Newfoundland, which certificate shall be countersigned by the Consul or Consular Agent of the United States.

ARTICLE IV.

When this convention shall come into operation, and during the continuance thereof, the duties to be levied and collected upon the following enumerated merchandise imported into the Colony of Newfoundland from the United States shall not exceed the following amounts, viz. :—

Flour, 25 cents per barrel.

Pork, \$1.50 per barrel of 200 lbs.

Bacon and hams, tongues, smoked beef, and sausages, 2½ cents. per lb., or \$2.50 per 112 lbs.

Beef, pigs' heads, hocks, and feet, salted and cured, \$1 per barrel of 200 lbs.

Indian meal, 25 cents per barrel.

Peas, 30 cents per barrel.

Oatmeal, 30 cents per barrel of 200 lbs.

Bran, Indian corn, and rice, 12½ per cent. *ad valorem*.

Salt, in bulk, 20 cents per ton of 2,240 lbs.

Kerosene oil, 6 cents per gallon.

And the following articles imported into the Colony of Newfoundland from the United States shall be admitted free of duty :—

Agricultural implements and machinery imported by Agricultural Societies for the promotion of agriculture.

Crushing mills for mining purposes.

Raw cotton.

Corn for the manufacture of brooms.

Gas engines, when protected by patent.

Ploughs and harrows.

Reaping, raking, ploughing, potato-digging, and seed-sowing machines to be used in the colony.

Printing presses and printing types.

ARTICLE V.

It is understood that if any reduction is made by the Colony of Newfoundland, at any time during the term of this convention, in the rates of duty upon the articles named in Article IV of this convention, the said reduction shall apply to the United States.

ARTICLE VI.

The present convention shall be duly ratified by Her Britannic Majesty and by the President of the United States of America, by and with the advice and consent of the Senate thereof, and the ratifications shall be exchanged at Washington on the 1st day of February, 1891, or as soon thereafter as practicable.

Its provisions shall go into effect thirty days after the exchange of ratifications, and shall continue and remain in full force for the term of five years from the date at which it may come into operation, and further, until the expiration of twelve months after either of the contracting parties shall give notice to the other of its wish to terminate the same, each of the Contracting Parties being at liberty to give such notice to the other at the end of the said term of five years, or at any time afterwards.

In faith whereof we, the respective Plenipotentiaries, have signed this convention, and have hereunto affixed our seals.

Done in duplicate at Washington, this day of , in the year of our Lord 1890.

No. 48.

Sir Julian Pauncefote to the Marquis of Salisbury.

(Extract.)

WASHINGTON, 6th January, 1891.

MY LORD,—With reference to previous correspondence respecting trade relations between the United States and Newfoundland, and to my telegram of the 17th ultimo (enclosure in No. 36), reporting the departure from Washington of the Honorable R. Bond, the Colonial Secretary of Newfoundland, I have the honour to inform your Lordship that I was this day requested by the Secretary of State to call on him at the State Department to receive a communication from him on the subject.

At this interview Mr. Blaine said that after considering the information supplied to him by Mr. Bond, and the wishes of the Newfoundland Government which I had privately placed before him at his request last October in the form of a draft convention, he was unable to accept the proposed arrangement in its entirety, but that he had framed a counter-draft, of which he delivered a copy to me, showing to what extent, and on what conditions, his Government were disposed to go in the direction of commercial reciprocity with the colony.

I have the honour to enclose a copy of that document.

I informed Mr. Blaine, in reply, that I would transmit the draft and report the substance of his observations thereon to your Lordship by the first opportunity.

I have, &c..

JULIAN PAUNCEFOTE.

The Marquis of Salisbury, K.G.,
&c., &c., &c.

[Enclosure in No. 48.]

CONVENTION between Great Britain and the United States of America for the Improvement of Commercial Relations between the United States and Her Britannic Majesty's Colony of Newfoundland.

The Governments of Great Britain and the United States, desiring to improve the commercial relations between the United States and Her Britannic Majesty's Colony of Newfoundland, have appointed as their respective Plenipotentiaries, and given them full powers to treat of and conclude such convention, that is to say:

Her Britannic Majesty on her part has appointed Sir Julian Pauncefote; and the President of the United States has appointed on the part of the United States James G. Blaine, Secretary of State.

And the said Plenipotentiaries, after having exchanged their full powers, which were found to be in due and proper form, have agreed to and concluded the following articles:—

ARTICLE I.

United States fishing vessels entering the waters of Newfoundland shall have the privilege of purchasing herring, caplin, squid, and other bait fishes, at all times on the same terms and conditions, and subject to the same penalties in all respects as Newfoundland vessels.

They shall also have the privilege of touching and trading, selling fish and oil, and procuring supplies in Newfoundland, conforming to the harbour regulations, but without other charge than the payment of such light, harbour, and Customs dues as are or may be levied on Newfoundland fishing vessels.

ARTICLE II.

Dry codfish, cod oil, seal oil, sealskins, herrings, salmon, trout and salmon trout, lobsters, cod roes, tongues, and sounds, the product of the fisheries of Newfoundland, shall be admitted into the United States free of duty. Also all hogsheads, barrels, kegs, boxes, or tin cans, in which the articles above named may be carried, shall be admitted free of duty. It is understood, however, that "green" codfish are not included in the provisions of this Article.

ARTICLE III.

The officer of the Customs at the Newfoundland port where a vessel laden with the articles named in Article II clears shall give to the master of said vessel a sworn certificate that the fish shipped were taken in the waters of Newfoundland; which certificate shall be countersigned by the Consul or Consular Agent of the United States, and delivered to the proper officer of Customs at the port of destination in the United States.

ARTICLE IV.

When this convention shall come into operation, and during the continuance thereof, the duties to be levied and collected upon the following enumerated merchandise imported into the Colony of Newfoundland from the United States shall not exceed the following amounts, viz.:—

Flour.....	25 cents per barrel.
Pork.....	1½ cents per lb.
Bacon and hams, tongues, smoked beef and sausage.....	2¼ cents per lb., or \$2.50 per 112 lbs.

Beef, pigs' heads, hocks, and feet, salted or cured	$\frac{1}{2}$ cent per lb.
Indian meal	25 cents per barrel.
Peas.....	30 cents per barrel.
Oatmeal.....	30 cents per barrel of 200 lbs.
Bran, Indian corn, and rice.....	12 $\frac{1}{2}$ per cent. <i>ad</i> <i>valorem</i> .
Salt (in bulk).....	20 cents per ton of 2,240 lbs.
Kerosene oil.....	6 cents per gallon.

And the following articles imported into the Colony of Newfoundland from the United States shall be admitted free of duty:—

- Agricultural implements and machinery imported by agricultural societies for the promotion of agriculture.
- Crushing mills for mining purposes.
- Raw cotton.
- Corn for the manufacture of brooms.
- Gas engines, when protected by patent.
- Ploughs and harrows.
- Reaping, raking, ploughing, potatoe-digging and seed-sowing machines to be used in the colony.
- Printing presses and printing types.

ARTICLE V.

It is understood that if any reduction is made by the Colony of Newfoundland, at any time during the term of this convention, in the rates of duty upon the articles named in Article IV of this convention, the said reduction shall apply to the United States.

ARTICLE VI.

The present convention shall take effect as soon as the laws required to carry it into operation shall have been passed by the Congress of the United States on the one hand, and by the Imperial Parliament of Great Britain and the Provincial Legislature of Newfoundland on the other hand. Such assent having been given, the convention shall remain in force for five years from the date at which it may come into operation, and further, until the expiration of twelve months after either of the high contracting Parties shall give notice to the other of its wish to terminate the same; each of the high contracting parties being at liberty to give such notice to the other at the end of the said term of five years, or at any time afterwards.

ARTICLE VII.

This convention shall be duly ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof, and by Her Britannic Majesty; and the ratifications shall be exchanged at Washington on the 1st day of February, 1891, or as soon thereafter as practicable.

In faith whereof, we, the respective Plenipotentiaries, have signed this convention and have hereunto affixed our seals.

Done in duplicate, at Washington, this day of , in the year of our Lord one thousand eight hundred and

No. 49.

Lord Knutsford to Sir Terence O'Brien.

Telegraphic.

23rd January, 1891. I request that you will inform your Ministers confidentially that as, after rejection by France of all their proposals, they decline to concur

in arbitration, and refuse to legislate for *modus vivendi* while French rights are being ascertained, Her Majesty's Government feel compelled to maintain the position they have taken up, both as regards commencing negotiations with France for arbitration, and as to deferring the ratification of the draft convention with United States, until its effect on other British interests has been considered. But looking to depressed condition of the colony and the importance of opening up its resources, they are now prepared to accept in principle Imperial guarantee of a loan for railway construction, as asked by delegates. They desire further information as to direction, extent, and probable cost of lines, and the probable amount of loan required.

In order to satisfy Imperial Parliament, a previous inquiry by a competent person into the merits of the proposed railway would be necessary, and security afforded perhaps by the creation of an independent Commission that the loan will be expended to the best advantage of the colony.

No. 49 a.

Lord Knutsford to Lord Stanley of Preston.

Telegraphic.

23rd January, 1891. I have to inform you that Her Majesty's Government have given fullest consideration to the representations of Canada against the proposed Newfoundland convention. As Canadian negotiations with the United States could not, even in the absence of the further delay arising from the dissolution of the Dominion Parliament, be commenced before March, and may not be carried through this year, Newfoundland interests should not be indefinitely postponed.

No. 50.

Lord Knutsford to Sir Terence O'Brien.

Sent 4.50 p.m., 23rd January, 1891.

Telegraphic.

(Extract.)

I have received your telegram of the 17th instant (No. 46) respecting the delay in proceeding with the convention. Its tone is not justified. I have already explained that the effect of the convention on Canadian interests must be fully considered, and further examination has shown that the probable effect would be more serious than was at first supposed. The question, therefore, cannot be disposed of as speedily as Her Majesty's Government had originally anticipated and desired.

If Canada assents, the difficulty now standing in the way of the ratification of the convention with the United States would be speedily removed.

No. 51.

Lord Knutsford to Sir Terence O'Brien.

Telegraphic.

9th February. Her Majesty's Government are willing to act on my telegram of the 23rd January (No. 49), and as also pointed out in that message, it will be necessary, in order to justify their action to Parliament, to have a Commission sent out,—

1. To inquire into the agricultural, mining, and other resources of the colony, and the manner in which they may best be developed ;
2. To inquire into and report upon the general financial condition of the colony ;

3. To inquire into and report upon the present condition of the population resident on or near the parts of the coast on which the French have rights of fishery, and to ascertain in what particular respects the Treaty obligations of Great Britain and the colony may have operated to the prejudice of that population; and, further, to report by what remedies consistent with those obligations, and with the rights and interests of other portions of the Empire, it may be practicable to remove the disadvantages under which the inhabitants of the colony labour.

If your Government accepts this Commission, Her Majesty's Government will propose to Parliament the legislation already indicated.

It will be necessary at the same time to satisfy Parliament that proper measures are being taken for adjusting the controversy with France, and that the colony is co-operating with Her Majesty's Government for that purpose.

No. 52.

Lord Knutsford to Sir Terence O'Brien.

Telegraphic.

9th February, 1891. I regret to inform you that Her Majesty's Government are still unable to depart from the conclusion announced to you on the 10th December (No. 33), that the proposed convention cannot be concluded until it has been proved that it would not prejudice other British interests.

Your Ministers are aware that this consideration has always been held to be of vital importance, and that on all previous occasions the interests of Newfoundland have been advocated by Her Majesty's Government in conjunction with those of Canada. Her Majesty's Government are, therefore, not at present in a position to proceed with the proposed convention. I shall explain further by despatch some points which your Government does not appear correctly to appreciate.

No. 53.

Sir Terence O'Brien to Lord Knutsford.

Received February 10th, 1891, 4.15 p.m.

Telegraphic.

10th February. In reply to your Lordship's telegram of the 9th instant, (No. 52), Ministers earnestly desire to know what proofs are required, as they cannot understand where the convention with the United States is prejudicial to British interests.

They are not aware that Her Majesty's Government have, with advantage to Newfoundland, advocated her interests in conjunction with those of Canada, but they are aware that Newfoundland has in the past suffered from being connected with Canadian proposals.

Her Majesty's Government were informed, when the Delegates asked for separate negotiations and convention, that the interests of Newfoundland and Canada were not identical, and acquiesced with full knowledge. Since then every request which has been made has been assented to, and my Government cannot comprehend the withdrawal of Her Majesty's Government from a distinct and positive understanding.

Her Majesty's Government in making the interests of Newfoundland subservient to Canadian politics are ruining the future prospects of the Colony.

By delay the convention will be lost, and my Government request an answer, yes or no, that the fate of the Colony may be known and action taken accordingly.

No. 54.

*Lord Knutsford to Sir Terence O'Brien.**Telegraphic.*

11th February. I have received your telegram of 10th of February (No. 53). The meaning of my telegram of the 9th instant (No. 52) is that Her Majesty's Government have definitely decided not to proceed at this moment with the proposed convention between Newfoundland and the United States, although they do not refuse to consider whether such a convention may be practicable at a later date.

My Despatch giving explanations goes by to-morrow's mail, and it seems undesirable to discuss the matter further by telegraph. That Despatch will show that your Government are under an entire misapprehension as to any distinct understanding that the terms of the Convention should be confirmed. Her Majesty's Government have observed with much regret the language in which your Ministers have thought fit to address them in your telegram under reply.

I request that you will keep me fully informed as to the course which your Government propose to take.

No. 55.

Lord Knutsford to Sir Terence O'Brien.

DOWNING STREET, February 12th, 1891.

SIR,—In my telegram of the 9th instant (No. 52) I have informed you that Her Majesty's Government regret to find themselves still unable to sanction the conclusion of the proposed Convention between Newfoundland and the United States. This decision has not been arrived at without very full consideration of the wishes and arguments repeatedly pressed upon Her Majesty's Government by your advisers and yourself, nor without a strong endeavour to find some means of bringing the interests of Newfoundland into compatibility with other Imperial interests. Up to the present time, however, that has proved impracticable, and the Convention, as to the feasibility of which Mr. Bond was, in September last, permitted to consult informally with Her Majesty's Minister at Washington, cannot at the present time be concluded.

There would appear to be some misapprehension in Newfoundland as to the circumstances in which Mr. Bond's visit to Washington was sanctioned by Her Majesty's Government, and I think it desirable to state briefly the general conditions under which all negotiations for separate commercial arrangements between individual Colonies and foreign States are necessarily conducted, and the limitations within which it was consequently possible for the present negotiation on behalf of Newfoundland to proceed.

Her Majesty's Government have raised no objection in principle to a separate negotiation with a foreign Power on behalf of one Colony only. It may be in some cases possible so to define the limits of the proposed commercial arrangement as to procure what the particular Colony desires without prejudicing the interests of those other portions of the Empire which are not included in the arrangement. It will be within your recollection that this subject was discussed with much attention at the Colonial Conference held in London in 1887; and, although the balance of opinion in the Conference was against such separate arrangements, it was admitted that Her Majesty's Government could not, having regard to the precedents which had been established, refuse to consider the merits of a commercial arrangement desired by one Colony only, and the effect which it might have on other British and Colonial interests.

That course was taken when it was desired in 1886 to conclude a trade arrangement as between the British West Indian Colonies and the United States; and in that case, as in the present case of Newfoundland, it was after much examination found

that the Convention could not, in the form in which it would be acceptable to the United States and the Colonies, be negotiated consistently with Imperial obligations and policy.

It was therefore under such well-recognized conditions and reservations that Her Majesty's Government readily consented in September of last year to the informal and unofficial visit of Mr. Bond to Washington, for the purpose of communicating to Sir Julian Pauncefote the views and wishes of the Newfoundland Government.

The wish of the Newfoundland Government for a separate trade and fishery arrangement with the United States had been brought before Her Majesty's Government in February, 1890. They promised to consider the question with Sir W. Whiteway after his arrival in England, and after explanations had been received from him, a letter introducing Mr. Bond was addressed to Her Majesty's Minister at Washington on the 8th August, 1890, in which Sir Julian Pauncefote was informed that Mr. Bond had been commissioned by the Newfoundland Government to communicate to him their views and wishes with regard to the desired arrangement.

After conferring with Mr. Bond, Sir J. Pauncefote introduced him to Mr. Blaine, and also submitted informally to Mr. Blaine, at his request, the draft of a Convention which would meet the views of the Newfoundland Government.

The time had then arrived for considering how far that Convention might affect other interests than those of Newfoundland; and the Government of Canada, as being, of course, principally interested, was consulted. As you are aware, the Dominion Government at once pointed out the injury to Canadian interests which would result from the conclusion of a distinct arrangement, whereby the United States would secure an important advantage in consideration of which Canada as well as Newfoundland had on previous occasions obtained material concessions from the United States; and it also became apparent that the United States Government was not disposed to extend to Canada the same limited arrangement as it might be willing to adopt in the case of Newfoundland alone.

It was therefore determined to consider whether, *pari passu* with the Newfoundland negotiation, an arrangement for reciprocity on a broader basis between Canada and the United States could be negotiated; and until it has been more definitely ascertained whether this latter negotiation can now proceed, the Newfoundland Convention must remain in abeyance.

I greatly regret that your Ministers should have resented the action taken by Her Majesty's Government in guarding the interests of other portions of the Empire, while endeavouring to give effect to the wishes of Newfoundland; but I trust that I have made it clear to them that, while Her Majesty's Government are willing to assist a Colony in negotiating a separate Commercial Arrangement, they cannot conclude such an arrangement as long as it is not compatible with those other Imperial interests and obligations which it is their duty to regard.

I may, in conclusion, remind you that in the past, when Treaties have been negotiated with the United States on behalf of Canada, the interests and wishes of Newfoundland have always been borne in mind.

I have, &c.

KNUTSFORD.

Sir TERENCE O'BRIEN.

No. 56.

Lord Stanley of Preston to Lord Knutsford.

Received February 13th, 1891.

GOVERNMENT HOUSE, OTTAWA, January 31st, 1891.

MY LORD,—With reference to previous correspondence on the subject of the proposed convention between Great Britain and the United States for the improvement of the trade relations between the latter country and the Colony of Newfound-

land, I have the honour to enclose copy of an approved Minute of the Privy Council of Canada, containing an expression of the views of the Canadian Government in regard to the convention in question.

I have, &c.,

STANLEY OF PRESTON.

The Right Honourable the Lord Knutsford, G.C.M.G.,
&c. &c. &c. &c. &c.

[Enclosure in No. 56]

(Extract.)

CERTIFIED COPY of a Report of a Committee of the Honourable the Privy Council, approved by His Excellency the Governor General in Council on the 29th January, 1891.

The Committee of the Privy Council have had under consideration a Despatch dated the 15th January, 1891, from Her Majesty's Minister at Washington, accompanied by the copy of a proposed convention between Great Britain and the United States for the improvement of commercial relations between the United States and the Colony of Newfoundland, and also the telegram from the Right Honourable the Secretary of State for the Colonies to your Excellency, dated the 23rd January instant. (No. 49A.)

The Sub-Committee of Council, to whom the despatch and enclosures were referred, report as follows:—

The reasons advanced in the Minute of Council, approved on the 12th December (No. 38), 1890, referring to the negotiations for a trade and fishery arrangement between the United States and Newfoundland, appear to your Excellency's Government to be fully as important and pressing now as they were at the date of that Minute, and to be as applicable to the present draft convention as to the draft which had then been under consideration.

While those reasons have doubtless been considered by Her Majesty's Government, they do not appear to have had attached to them the weight which, in the opinion of your Excellency's advisers, they are entitled to, for the despatch of Lord Knutsford, dated the 23rd January instant merely intimates the inconvenience of delay with regard to the convention proposed for Newfoundland, as though only delay had been asked, and as though objections in point of principle had not been advanced.

Her Majesty's Government will doubtless remember that when the protest of your Excellency's Government against the draft convention which was considered in December last was made known to the Principal Secretary of State for the Colonies, his Lordship intimated that if Canada were willing to commence negotiations at once, the Newfoundland convention would not be concluded immediately, but that negotiations on behalf of Canada could go on *pari passu* with those regarding Newfoundland.

Your Excellency's Government at once assented to the propriety of this course, and announced their willingness to commence negotiations at once, with the sanction of Her Majesty's Government, only expressing a preference for a formal and official conference under Commission, rather than a private and unofficial discussion.

No responsibility for delay rests on your Excellency's Government. Even the dissolution of Parliament, which has been referred to as possible, would not retard negotiations.

The sub-committee feel bound, therefore, to recommend that the Government of Canada insist on the importance of the negotiations concerning trade relations with Canada proceeding *pari passu* with those affecting Newfoundland.

The sub-committee observe that an examination of the proposed convention will show that while, as was stated in the Minute of Council approved in December last, the advantages afforded to the British North American fishermen under the treaty of 1818 would be reduced almost to a nullity, the fishery products of Newfoundland would be admitted to the markets of the United States under such a convention, on

such terms as to displace very largely the like products exported by the fishermen of Canada to that country.

That the Canadian Government has declared its policy to be that no commercial arrangements with a foreign country should be acceded to by Canada which would involve tariff discrimination against the mother country, and this principle has had the approval of Her Majesty's Government; but it will be difficult to induce the people of Canada to continue to believe in the importance of that principle as a safeguard to the interests of the Empire if Great Britain now makes a convention for Newfoundland under which the United States is able to discriminate directly against Canada.

The sub-committee are of opinion that your Excellency's Government should press the importance of permitting no discrimination, at least as against any part of British North America, to be made in any trade arrangement with the United States, and should continue to urge the necessity of insistence that in any such arrangement all Her Majesty's provinces in North America shall participate equally.

The Sub-Committee submit that it seems necessary further to invite close attention to the Vth Article of the draft convention. That Article seems fairly open to the construction that if the existing rates of duty in Newfoundland on the articles mentioned in Article IV shall be reduced as regards importations from other countries than the United States, the United States shall have a further reduction below that which the convention fixes as the maximum duties on United States goods of that description. If this is the construction intended the convention is open to the further objection that it stipulates for a continued preference in the markets of Newfoundland for United States products over those of every other country, involving therefore not only discrimination by the United States in favour of Newfoundland, but by Newfoundland in favour of the United States, and such discrimination would be against Canada and the mother country as well.

The Committee concur in the said report of the Sub-Committee, and request that Your Excellency be pleased to transmit this Minute, if approved, to the Right Honourable the Principal Secretary of State for the Colonies.

JOHN J. MCGEE,
Clerk Privy Council.

—
No. 57.

Lord Knutsford to Sir Terence O'Brien.

Telegraphic.

(Extract.)

14th February, 1891. Telegrams in the press report repetition in Mr. Bond's resolution of incorrect statement that Her Majesty's Government had authorized conclusion of convention. You should present my despatch of the 12th February (No. 55) to both Houses as soon as received.

—
No. 58.

Sir Terence O'Brien to Lord Knutsford.

Received February 14th, 1891.

(*Telegraphic.*)

Having been requested by both Houses of Legislature to communicate to you by telegram resolution passed by them, I have no option but to do so:—

“Whereas the Legislature has been informed by His Excellency the Governor, in the speech with which his Excellency has been pleased to open the present session, that Her Majesty's Government has up this date declined to sign the con-

vention for reciprocal trade between this colony and the United States of America; and whereas the Legislature has been informed that on the 8th day of July, 1890, the delegates appointed by the Government of this colony to proceed to England to consult and advise with Her Majesty's Government in relation to the interests of this colony proposed to Her Majesty's Government that this Colony should be permitted to negotiate through Her Majesty's Representative at Washington a convention for reciprocal trade with the United States of America; and whereas the Legislature has been informed that after lengthy consideration of this proposal Her Majesty's Government did on the 8th day of September last intimate to the said delegates the acquiescence of Her Majesty's Government therein, and did consent to one of the said delegates proceeding to Washington to lay before Her Majesty's Plenipotentiary and Envoy Extraordinary the views of the Government of this colony upon this question, and to aid in said negotiations; and whereas the Legislature has been informed that on the 18th day of November last Her Majesty's Government advised the immediate return of the Colonial Secretary to Washington with a view to concluding the said negotiation; and whereas the Legislature has been informed that on the 16th day of December a convention satisfactory to the Government of this Colony, and in accordance with that proposed by the said Delegates to and accepted by Her Majesty's Government, was agreed to by the United States Secretary of State on behalf of his Government, and Her Majesty's Government has not assented to the ratification, although most strongly urged thereto by the Government of this Colony; and whereas it is deemed of paramount importance that the said convention should be ratified without delay:

"Be it resolved, that the consideration of His Excellency's Speech be deferred until there be an expression of opinion to be communicated to Her Majesty in relation thereto.

"Resolved, that the Legislature views with profound disappointment and alarm the failure of Her Majesty's Government to carry out its solemn obligations to this Colony. They are aware of the interference of Canada in relation to this matter, and they cannot fail to appreciate the same as a menace to the independence of the Colony; they emphatically protest against the interests of this Colony being made subservient to those of the Dominion of Canada, and they regard the delay that has occurred in the ratification of the said convention as entirely unjustifiable, and as evidencing an utter disregard for the prosperity and well-being of this Colony.

"Resolved, that the delay occasioned by Her Majesty's Government in ratifying the said convention is regarded by this Legislature as unfriendly and hostile, and as calculated to permanently disturb that loyalty for which this Colony has in the past been remarkable.

"Resolved, that the Legislature most strongly urges Her Majesty's Government to immediately fulfil its pledge to this Colony by ratifying the said convention."

No. 59.

Lord Knutsford to Sir Terence O'Brien.

Telegraphic.

17th February, 1891. My despatch of the 12th February (No. 55) contains answer to resolution of both Houses of Legislature, but does not refer to return of Mr. Bond to Washington, which is incorrectly referred to in resolution.

Mr. Bond was not invited to return with a view to concluding the negotiation as stated in resolution, but to furnish information as to certain statistics and explanations.

Present this telegram with the despatch.

No. 60.

*Lord Knutsford to Sir Terence O'Brien.**Telegraphic.*

21st February, 1891. Referring to my telegram of the 17th February (No. 59), in further reply to resolutions of Houses of Legislature, I have to observe that it was very unusual course for member of Colonial Government to propose to Legislature resolutions condemning in strong terms proceedings of Her Majesty's Government with regard to convention, without placing before it full information as to the reasons which had induced Her Majesty's Government to take steps objected to. Communicate this to Ministers with reference to my despatch and telegram.

No. 61.

Sir Terence O'Brien to Lord Knutsford.

Received 3rd March, 1891.

GOVERNMENT HOUSE, ST. JOHN'S, 16th February, 1891.

MY LORD,—I have the honour to inclose herewith a copy of the resolutions (see No. 58) passed by both branches of the Legislature in reference to the delay on the part of Her Majesty's Government in ratifying the convention for reciprocal trade between this colony and the United States of America.

2. At the request of the Legislature, as is shown in the accompanying copy of an Address presented to me, I forwarded the above-mentioned Resolutions, in full, by telegram to your Lordship on the 14th instant.

I have, &c.,

T. O'BRIEN, *Lt.-Col.*,*Governor.*

The Right Hon. Lord Knutsford, G.C.M.G.,
&c., &c., &c.

[Enclosure in No. 61.]

To His Excellency Sir J. Terence N. O'Brien, Lieutenant-Colonel, Knight Commander of the Most Distinguished Order of St. Michael and St. George, Governor and Commander-in-Chief in and over the Island of Newfoundland and its dependencies.

MAY IT PLEASE YOUR EXCELLENCY.

The Legislative Council and House of Assembly have passed the accompanying Resolutions, which they respectfully request your Excellency will be pleased to forward by telegraph to Her Majesty's Government through the Right Honourable the Secretary of State for the Colonies.

Passed the House of Assembly, 13th February, 1891.

GEO. H. EMERSON, *Speaker.*

Passed the Legislative Council, 13th February, 1891.

E. D. SHEA, *President.*

No 62.

Sir Terence O'Brien to Lord Knutsford.

Received 7th March, 1891.

Telegraphic.

Following is text of last night's resolution passed by House of Assembly in answer to your telegram of 11th February and your despatch of 12th February:— (Nos. 54 and 55).

"Whereas Governor stated in reply to address on the 23rd February: 'While I thank you for your address, I regret that I must at the same time take exception to that portion of it which relates to the proposed convention with the United States of America, for I am led to believe, from a telegraphic communication received from the Right Honourable the Secretary of State for the Colonies, that when, on the arrival of the mail, this telegram and his Lordship's despatch on the subject are laid before you and all the circumstances become known, you will find that your conclusions and deductions have been erroneous;'

"And whereas, by his Excellency's command, this House has been placed in possession of the despatches referred to, and has most carefully considered the same; and whereas in the said despatches the Secretary of State has not only confirmed everything that this House alleged in the Resolutions that were unanimously adopted by it on the 13th February, and which was set forth in its address in reply to Governor's speech:—

"1. That the matter of reciprocity between Newfoundland and the United States was formally brought under the notice of the Imperial Government by the Newfoundland delegates;

"2. That after lengthy consideration of the proposals made by the said delegates, Her Majesty's Government assented to the Colonial Secretary of this island proceeding to Washington to lay before Her Majesty's Minister the views of the Newfoundland Government relative thereto;

"3. That after the return of the Colonial Secretary of Newfoundland in November a telegraphic despatch was received from the Right Honourable the Secretary of State for the colonies, advising his immediate return to Washington; and

"4. That a convention satisfactory to the Government of this colony was agreed upon which has not been ratified by Her Majesty's Government, but further states that the draft convention which was submitted to the American Minister on the 18th October was laid by Her Majesty's Ministers before the Government of Canada, and Her Majesty's Ministers decided that the convention must remain in abeyance because the Government of Canada had pointed out that Canada had on previous occasions obtained material concessions from the United States for privileges which this Colony now offers the United States in her own interest alone;

"And whereas, after acquiescing in the interference of the Government of Canada in relation to this matter, and accepting her protest against the convention, Her Majesty's Government did transmit a despatch to the Governor, under date of 18th November, advising the immediate return of the Colonial Secretary of this Colony to Washington in these words: 'Blaine urges that Colonial Secretary should return at once to Washington to furnish report on statistics and certain explanations which are necessary in connection with proposed reciprocity treaty. He considers that it would be advantageous for him to go immediately':

"*Resolved*,—That it is the opinion of this House that not only has the position which it took up and set forth in the Resolutions transmitted to Her Majesty's Government, and in the Address and reply to his Excellency's Speech, been amply substantiated and justified, but that the grievance of the Colony is intensified by the fact that after Her Majesty's Government had favourably received the objections of Canada, as set forth in the despatch of the Secretary of State of 12th February, the Colonial Secretary was directed to proceed again to Washington as if for the purpose of concluding the convention against which Her Majesty's Government had already accepted the protest of Canada.

"*Resolved*,—That in the opinion of this House the time for considering how far that convention might affect other interests than those of Newfoundland had arrived when, in July, 1890, a full text of the draft convention was submitted to Her Majesty's Government by the delegates, and not after formal negotiations had been entered into with the United States and the draft convention agreed to.

"*Resolved*,—That in the opinion of this House Her Majesty's Government are in honour bound to complete the negotiations which were entered upon and concluded so far as this Colony is concerned in good faith."

No. 63.

Sir Terence O'Brien to Lord Knutsford.

Received March 8th, 1891.

Telegraphic.

7th March, 1891. Referring to my telegram of to-day (No. 62), following is text of paragraph in Address to which serious objection was taken by me: "It is highly satisfactory to know that your Ministers have, with the express sanction of the Imperial Government, concluded a treaty of reciprocal trade with the United States through Her Majesty's Plenipotentiary and the United States Secretary of State; but this satisfaction is seriously diminished by the intimation which your Excellency has conveyed, that the Imperial Government has withheld its assent to this convention; our disappointment is the more deepened from the knowledge that Her Majesty's Government authorised a delegate from this Colony to conduct the negotiations which led to a convention so advantageous to both countries; we cannot close our eyes to the fact that Her Majesty's Government, in adopting a course fraught with such disastrous consequences to this Colony, has been influenced by regard for the interests of a neighbouring Dominion, and a disregard for those of the oldest and most unfavourably treated Colony of Her Majesty's Empire.

"The neglect to which this Colony is continually subjected must no doubt be attributed to the ignorance prevailing in the mother country respecting Newfoundland, a Colony which, with its dependencies, exceeds in area all the other Atlantic maritime provinces of British North America, that the interest therefore of such a Colony, with its inexhaustible fisheries, its boundless mineral wealth, its immense tracts of agricultural and timber lands, its magnificent bays and harbours, and from its geographical situation unsurpassed as a strategical position in the event of military or naval hostilities on this side of the Atlantic, should be made subservient to the party politics of a rival Colony, whose irritating policy has provoked and estranged a neighbouring friendly nation to which it is allied by the ties of a similarity of laws and language, race and religion, is calculated to call forth the just indignation of a people already suffering from the baneful effects of a century of misconstruction of French treaty rights on their shores; it is a subject of congratulation, however, to be informed that your Excellency's Ministers are using every effort to obtain the assent of Her Majesty's Government to this Convention."

No. 64.

Lord Knutsford to Sir Terence O'Brien.

DOWNING STREET, March 12th, 1891.

SIR,—I have the honour to acknowledge the receipt of your Despatch of 16th February (No. 61), forwarding the Resolutions passed by both Houses of the Legislature on the subject of the course taken by Her Majesty's Government with regard to the proposed convention with the United States.

The purport of these Resolutions had previously been communicated to me in your telegram of the 13th February (No. 58), and, as I informed you in my reply of the 17th (No. 59), of that month, full explanations of the action of Her Majesty's Government in this matter were contained in my Despatch of the 12th February, (No. 55), which I requested you to present to the Legislature. I have since received your telegrams of the 7th March (Nos. 62 and 63) reporting further Resolutions passed by the House of Assembly on the 6th instant.

I explained in my telegram of 17th February (No. 59), that the circumstances connected with Mr. Bond's second visit to Washington had been incorrectly referred to in the former Resolutions, and I regret to observe that on this point, as well as in respect of other errors which I had corrected in my Despatch of 12th February (No.

55), the House of Assembly has again been invited by your responsible advisers to record an inaccurate view of the transactions referred to.

At the request of the United States Secretary of State Mr. Bond was, on the 14th November, invited to return to Washington to "furnish information as to certain statistics and explanations necessary in connection with the proposed convention," but it was in no way suggested that the convention could then be concluded.

The correspondence about to be published shows this fact very distinctly.

It appears that while at Washington, Mr. Bond, without reference to Her Majesty's Minister, had several interviews with Mr. Blaine, which resulted in a remodelling of the draft convention as prepared and presented to Mr. Blaine by Sir J. Pouncefote. This new draft he handed to Her Majesty's Minister on the 16th December, with a statement that it would be most acceptable to Newfoundland, and that Mr. Blaine was also prepared to accept it. Sir J. Pouncefote (who had received no reply from the United States Government to his communication presenting the original draft) at once informed Mr. Bond that he would keep the draft for reference in case Mr. Blaine should make any proposal to him founded upon it, but that he could take no cognizance of anything that might have passed between Mr. Bond and Mr. Blaine during his absence. Mr. Bond readily admitted this, and said that Mr. Blaine would no doubt communicate the draft to Sir J. Pouncefote as a counter-proposal. It was not, however, till the 6th January that Mr. Blaine communicated the counter-draft to Her Majesty's Minister, and this fact, which was known to your Ministers, does not appear to have been pointed out to the Legislature.

I have, in my despatch already referred to, explained the circumstances in which Her Majesty's Government consented to the opening of the negotiations, and I have pointed out that such consent could not be construed into a pledge or obligation on their part to conclude and ratify any convention without full consideration being given to other interests likely to be affected by it.

In the Resolution of the 6th instant your Ministers invited the House of Assembly to state that the question whether other interests might impede the desired separate convention should have been considered before, and not after, negotiations were entered upon; but it should have been obvious to your Ministers that if that question had been raised in the first instance it would almost certainly have been decided that power could not be given to Newfoundland to negotiate the desired separate convention without the concurrence of Canada, while there appeared to be some hope that in working out the convention it might be brought into a shape not directly detrimental to other British interests, and be made to include such provisions as would enable Canada to become a party to it.

I regret that the measures which Her Majesty's Government felt it to be their duty to take in connection with the proposed convention, and the course of the proceedings, should not have been stated in the Newfoundland Legislature with precise accuracy.

I request that you will lay this Despatch before both Houses of the Legislature.

I have, &c.,

KNUTSFORD.

Sir TERENCE O'BRIEN.

No. 10.

Sir J. Pouncefote to Lord Stanley of Preston.

WASHINGTON, 26th March, 1891.

MY LORD,—Immediately on receipt of your Lordship's despatch No. 17, of the 16th instant, I sought an interview with the Secretary of State for the purpose of ascertaining from him at what date it would be convenient that the representatives appointed by the Canadian Government should proceed to Washington for the purpose of holding the proposed unofficial conferences on the questions referred to in

that despatch. Mr. Blaine was unable to see me owing to indisposition. I therefore addressed a note to him of which I have the honour to inclose a copy, but to which I have as yet received no reply. I regret to say that he has been confined to his room ever since, but he was good enough to receive me at his house yesterday when he informed me that he would send a written reply to my note.

I have, &c.,

JULIAN PAUNCEFOTE.

The Governor General.

WASHINGTON, 20th March, 1891.

DEAR MR. BLAINE.—In a note dated 27th January last, I had the pleasure to inform you confidentially, that the Canadian Government, in deference to your preference for an unofficial conference on the question of reciprocity, were disposed to meet your wishes in that respect. It was understood that you would be ready after the 4th March to discuss the subject unofficially with me and one or more agents from Canada.

I have now received a despatch from the Governor General of Canada in which he requests me to ascertain from you whether the present time is convenient to you for that purpose, in which case the representatives appointed by the Canadian Government will proceed at once to Washington to confer in the manner proposed on all or any of the subjects indicated in the basis of negotiation, of which I had the honor to place a copy in your hands on the 22nd December last.

I should be extremely obliged if you would favour me with an early reply to Lord Stanley's inquiry, and I remain, &c.

J. PAUNCEFOTE.

The Hon. J. G. BLAINE.

No. 11.

Sir J. Pauncefote to Lord Stanley of Preston.

WASHINGTON, 8th April, 1891.

MY LORD,—With reference to my telegram of the 6th instant, respecting the adjournment of the proposed Conference on reciprocal trade arrangements between Canada and the United States, I now have the honour to transmit to Your Excellency a copy of a letter which I received from Mr. Blaine after the departure of Sir Charles Tupper and his colleagues from Washington, and in which he suggests the 12th October as the date for opening the Conference.

I shall feel obliged if Your Excellency will be good enough to inform me whether the above date is agreeable to the Dominion Government and whether I may so inform the Secretary of State.

I have, &c.,

JULIAN PAUNCEFOTE.

The Governor General, &c., &c.

17 MADISON PLACE, WASHINGTON, 6th April, 1891.

MY DEAR SIR JULIAN,—May I hope that Monday, October 12th, will prove a convenient time for the representatives of the Dominion of Canada to come to Washington for a Conference regarding reciprocal trade arrangements between the two countries?

The day will be altogether agreeable to this Government. Regretting that your friends cannot remain long enough among us to receive the hospitality of our people.

I am, &c.,

J. G. BLAINE.

No. 12.

LEGISLATIVE ASSEMBLY, MANITOBA, 2nd April, 1891.

SIR,—I have the honor in accordance with the instructions of the Legislature to transmit to you copy of a resolution adopted at the present session.

I have the honor to be, sir, your obedient servant,

E. G. CONKLIN, *Clerk of the Legislative Assembly.*

The Right Honourable Sir JOHN A. MACDONALD, Ottawa.

RESOLUTION.

Moved by Mr. Fisher, seconded by Mr. Martin (Morris),—

Ordered,—Whereas this House on the 19th day of March, 1890, unanimously adopted a resolution reaffirming the declaration of a previous legislature that the Customs Tariff pressed very heavily on the people of this Province, and pronouncing in favor of unrestricted reciprocity between Canada and the United States, as the late Hon. John Norquay had so decidedly done in 1887;

And whereas attempts have several times been made on the part of the Government of Canada, since the cancellation in 1866 of the treaty of 1854 providing for reciprocity in natural products, to bring about a wider scheme of reciprocity embracing many articles of manufacture as well as natural products, and that Government has recently taken fresh steps looking once more to the accomplishment of that end, while the political party in the Dominion opposed to the Government has pronounced in favor of the unrestricted reciprocal trade for which this Legislature and Mr. Norquay prayed: and these facts prove that all parties in the Dominion are united in a desire to secure a wide system of reciprocity with the United States;

And whereas suggestions have been made in certain high quarters, that some of the leading advocates of unrestricted reciprocity, are aiming at a dissolution of the tie that binds this country to the mother land and to link us politically with the American Republic;

And whereas it is desirable that no misapprehension shall exist as to the attitude of this Legislature in that regard;

Be it therefore resolved that this House most emphatically declares that in pronouncing in favor of unrestricted reciprocity with the American Union it did not, and does not aim at leading directly or indirectly, proximately or remotely to such a result: But it sought, and seeks simply to secure for the settlers in Manitoba the most convenient competitive markets for the disposal of their produce and for the procuring of their needed supplies, under the most favourable conditions for the sale of the one and the purchase of the other.

And this House further declares that no treaty of reciprocity will be satisfactory which will not place it beyond the power of American legislation to fix or American influence to change the Canadian Tariff against other lands, or which will in any way place Canada at the mercy of the United States.

And it is the opinion of this House that a fair measure of reciprocity based on proper conditions which would be at once appropriate to our interests and consistent with the preservation of the integrity of the Empire would largely promote the material prosperity of Canadians and so tend to make them more than ever content with their existing political relations.

No. 13.*Sir Charles Tupper to Sir John A. Macdonald.*

WASHINGTON, 21st April, 1891.

DEAR SIR JOHN MACDONALD,—I arrived in Washington at 3.50 p.m., on Wednesday, 1st April, 1891, and, after taking rooms at the Arlington, at once drove to the British Legation where I was received in the kindest manner by Sir Julian and Lady Pauncefote, who insisted upon my staying with them during my visit to Washington, which invitation I accepted.

Sir Julian Pauncefote told me that he had pressed Mr. Blaine for an answer to his note of enquiry as to when he would receive delegates from Canada to discuss the proposed question of reciprocity, and that he had been informed by Mr. Blaine that morning that he (Sir Julian) would receive a letter that day. Sir Julian informed Mr. Blaine that he had been advised by Lord Stanley of my departure for Washington. To this Mr. Blaine replied that upon my arrival he would be very happy to see me, but that, in the meantime, he would send a written answer to Sir Julian's note.

Mr. Blaine's letter reached Sir Julian shortly after my arrival. It contained a formal acknowledgment of Sir Julian's note and intimated that he had said that exception had been taken by the President and himself to the proposed basis of negotiation at the time the memorandum on this subject was submitted to him by Sir Julian. In this view Sir Julian told me he could not concur, as, according to his recollection, no reference had been made at the time to the President, or that such were his views.

Mr. Blaine also said that he did not agree with the references which had been made by Sir John Macdonald and Sir Charles Tupper, during the elections, as to what had taken place concerning the initiation of the proposed informal discussion between the Dominion and the United States representatives. The initiation Mr. Blaine contented had come from Sir Julian. He added, however, that he would be pleased to receive the delegates from Canada and to confer with them informally upon the subject of reciprocal trade relations.

On the following morning (Thursday, 2nd April), Sir Julian wrote to Mr. Blaine saying that I had arrived, and asking when it would be convenient for Mr. Blaine to receive us.

Mr. Blaine replied immediately that he would be most happy to meet us at the State Department at 11 o'clock the same morning, that he would have preferred to see us at his residence, but it was the diplomatic reception day at the State Department, and that we would be admitted to his office immediately after those who were there before us. Sir Julian and I reached the State Department precisely at eleven o'clock, where we found the German Minister waiting, and learned that the Mexican and Danish Ministers were already with Mr. Blaine. We were soon joined by the French and Spanish Ministers.

As soon as the German Minister had had his interview we were sent for by Mr. Blaine.

He received me with great cordiality and proceeded to remind me of our having met on the occasion of the opening of the International Railway, connecting Maine and New Brunswick. I told him that I had always had a most agreeable recollection of that incident, and that I was very glad to have an opportunity of renewing the pleasant acquaintance I had at that time formed.

I told Mr. Blaine that I wished, in the outset, to recognize the accuracy of the statement contained in his letter to Sir Julian Pauncefote, which I had seen, in reference to the initiation of the negotiations regarding reciprocal trade arrangements between the two countries; that I believe it arose from the negotiations which had recently taken place between the United States and Newfoundland, and the desire expressed by Canada to be included in any arrangement such as had been understood to have been contemplated by the United States and Newfoundland; and that, upon that being communicated to him by Sir Julian Pauncefote, he had expressed his

willingness to open negotiations for reciprocal trade arrangements between Canada and the United States, assisted by delegates from the Dominion Government; the negotiations to be informal, and to a certain extent of a confidential nature until they could assume a more formal character, if any result were arrived at.

Mr. Blaine said he had understood Canada had taken some exception to the proposed arrangement with the United States by Newfoundland. I admitted that such was the case, and that I had explained to Her Majesty's Government that in connection with the question of the Atlantic fisheries, the interests of Canada and of Newfoundland had always been regarded as inseparable; that the treaties of 1854 and 1871 provided for the participation of Newfoundland by the action of its legislature; that the ratification of the treaty of 1888 depended upon the approval of Newfoundland; and that there appeared to be great objections on many accounts to the interests involved being dealt with separately. Mr. Blaine asked me what was the reason that Newfoundland had not become a part of the Canadian Confederation. I replied that, in addition to its being somewhat more remote, the difficulty was that which had been experienced, notably in the United States and the British North American provinces, of the reluctance of a small autonomous Government of giving up its affairs to a larger body where it might possibly be overruled. I instanced the strong feeling which was exhibited by the province of Nova Scotia in opposition to becoming a part of our Confederation, but which happily had been removed by experience. I added that, but for the abrogation of the Treaty of 1854, I did not believe that it would have been possible to have carried Confederation in Nova Scotia.

I then told Mr. Blaine that I wished to remove the idea, if he entertained it, which had been promulgated in Canada and the United States, that the present Government of the Dominion was not warmly in favour of the most friendly relations with the United States. In an article which I had recently sent over my own signature to the *North American Review*, I had undertaken to give conclusive evidence upon that point, and that I need further only refer him to the fact that when Sir John Macdonald, who was one of Her Majesty's Joint High Commissioners, submitted to Parliament for approval the Alabama Treaty—which settled also all the then pending questions between Canada and the United States—he was fiercely denounced by the leaders and press of the Liberal party for having basely sacrificed the interests of Canada in his endeavours to promote friendly relations between Canada and the United States. I added that I had experienced the same treatment from the same party, when I submitted for the approval of Parliament, the Treaty of Washington of 1888. I was then charged by the leaders and press of that party with having conceded everything to the United States and obtained nothing in return, so great was my anxiety to remove all causes of dissention between the two countries.

Continuing, I said, that, of course, in 1866 and subsequently in 1885, when treaties, which gave to United States fishermen common rights with our own fishermen, were abrogated in consequence of the action of the United States, we were thrown back upon the Treaty of 1818, but I said that the statement that Canada had then resorted to a harsh construction of the Treaty of 1818 with the object of promoting freer trade relations with the United States, was erroneous. That we were compelled in justice to the rights of our own fishermen, who were met with high duties in the United States markets, to protect our fishermen as effectually as we could. We were attacked by the press of the Opposition for not maintaining our rights more thoroughly.

Mr. Blaine desired to assure me that, outside of individual expressions of opinion, there was no interest taken by the Administration or Congress of the United States in the recent Canadian elections, and that they had taken no action of any kind calculated to influence the result of the elections.

I then went on to say that, in the article which I had written for the *North American Review*, he would find I had said that greatly to the honour of Congress it refused to pass a resolution which was urged upon it by Mr. Wiman for the avowed

purpose of influencing our elections, and that although I myself had formed the opinion that both the great parties in the United States would be glad to have Canada in the Union, I regarded that feeling, if it existed, as more of a compliment to Canada than otherwise. Continuing, I said that Canada was most anxious to have the freest and most friendly trade intercourse with the United States consistent with the interests of both countries and that I should regret very much if Canada and the large number of Canadians in the United States were driven to the conclusion that they could only look to one party in the United States for freer commercial intercourse between the two countries.

I said it was difficult to say why the Treaty of 1854 should have been abrogated, as the statistics of both countries proved that, although there was great expansion of trade between the United States and Canada, more advantage had accrued to the United States than to Canada under the Treaty, the balance of trade being over \$95,000,000 in favour of the United States.

Mr. Blaine said that he was free to admit that that Treaty was not abrogated on commercial grounds, but in consequence of the feeling which had grown up that Canada had sympathised with the Southern States in their conflict.

I replied that it was difficult to see upon what basis that opinion could be entertained, as it was admitted that no less than 40,000 Canadians had fought in the Northern army to maintain the union of the United States, while I did not suppose that 40 had been found on the other side.

Mr. Blaine admitted that, but he supposed that the very large bounty had had a good deal of influence in the matter. I then said that that unhappy conflict had taken place previous to the Confederation of Canada, but I could speak with some accuracy of the Province of Nova Scotia with which I was then connected: that the Legislature of Nova Scotia had passed a resolution deploring the war, and that one of the sharpest of Intercolonial questions arose, as he would remember, in connection with the Chesapeake incident in the harbour of Halifax, and that it was my duty as premier of the Province to advise the Lieutenant Governor, who was also the Commander-in-Chief, as to what course the Government of Nova Scotia should pursue: and that the President of the United States had sent an autograph letter thanking him for the action of the Government of Nova Scotia on that occasion. I had only to repeat, I went on to say, that the Government of Sir John Macdonald, and the party which sustained him had the strongest desire to promote reciprocal trade between the two countries, and their hopes in that direction were greatly strengthened by the decided measures which Mr. Blaine had taken to promote reciprocal trade with other countries, and that I could not see why he could not with great advantage to the United States, as well as to Canada, extend to the North the same policy he had pursued with countries to the South, whose trade was very much smaller than that between the Dominion and the United States.

I said that the fact that he had expressed his readiness to receive the representations that Canada wished to make, would show that he was quite open to consider that question. I was further strengthened in these views, I added, by the disposition that he had shown to make reciprocal arrangements with the Colony of Newfoundland. Under the *modus vivendi* an arrangement was made by which the licenses given in Canada or Newfoundland covered the waters of both. The fact that a large number of licenses were taken out in Canada led to the conclusion that Canada was the best base of supplies for the fishermen of the United States, who, in going to the Grand Banks of Newfoundland from Gloucester, naturally passed near the coasts of Nova Scotia, where they were entitled to obtain not only all the bait and other commercial privileges they required but in addition were entitled to ship crews and to tranship by rail their fish in bond through Canada to the markets of the United States.

Some question then arose between Sir Julian Pauncefote and Mr. Blaine as to Mr. Bond's negotiations. Sir Julian explained that Mr. Bond had no authority to negotiate in any other way than through him, and that Mr. Bond's last negotiation was entirely irregular and without authority.

Mr. Blaine said that it did not appear necessary to negotiate any treaty with Newfoundland, as that colony had expressed its readiness to give the United States the privileges they enjoyed by their own action and that they proposed, not only to give bait to United States fishermen, but to refuse to give the same privilege to Canada. I told Mr. Blaine that the Bait Act in Newfoundland had received the assent of Her Majesty upon the distinct pledge of Sir Ambrose Shea and the then Premier of Newfoundland that Canadian vessels would not be affected by it. That I understood the courts of Newfoundland had declared that the action taken under that Act was not legal. I added, that Her Majesty had the power to disallow any Bill that might be passed upon the subject by the colony.

I told Mr. Blaine that Sir John Macdonald had understood that Mr. Blaine had not been well, and that Sir John had suggested that it might be more convenient to Mr. Blaine to take up the consideration of these questions at a later period, and that pending the consideration of these questions at a later period the Dominion Parliament would be asked to continue the *modus vivendi* to avoid friction in the meanwhile.

Mr. Blaine replied that, as he was better, he was quite prepared to go on now, or if we preferred to take up the subject later. I then said that I would ask the Minister of Justice and the Minister of Finance who had been deputed by Sir John Macdonald to join me as soon as Mr. Blaine could receive us. He named Monday next, the 5th inst., and he promised to give the fullest and fairest consideration to the whole subject.

He referred incidentally to the Behring sea question. I merely said in reply that I understood that it was in a fair way of an early, and I hoped, satisfactory adjustment.

He mentioned also casually, that he had proposed to my son, the Minister of Marine and Fisheries, during his conference at Washington, last year, that no increase of duties should take place either in the United States or Canada on fish, and he regretted that that proposal had not been accepted as Congress had since increased them. I told him I was much surprised to hear this, as I could not understand such a proposition not finding favour. I added that I would look into the matter. I have, since my interview with Mr. Blaine, learned that the proposal of Mr. Blaine was in effect that the United States suggested that they would not increase the duties on fish if Canada would do away with the tonnage dues under the *modus vivendi*.

Upon the conclusion of our interview, I thanked Mr. Blaine very much for his courtesy and told him that I should endeavour to meet him, with Sir J. Pauncefote and my colleagues, for the purpose of having the negotiations opened on Monday next.

I am, &c.,

CHARLES TUPPER.

The Right Hon. the Prime Minister,
&c., &c., &c.,
Ottawa, Canada.

No. 14.

OFFICE OF THE HIGH COMMISSIONER FOR CANADA,
VICTORIA CHAMBERS, 17 VICTORIA STREET,
LONDON, S. W., 25th April, 1891.

MY DEAR SIR JOHN MACDONALD,—As you are aware, after my interview with Mr. Blaine, on the 2nd April, I made a hurried visit to Ottawa, and had the pleasure of a short conference with you and your colleagues on the 4th, when you handed me the following telegram from Sir J. Pauncefote, dated the 3rd April:—

“ Will you kindly communicate following message to High Commissioner:—

“ Secretary of State wrote to you after your departure yesterday, to invite you to dine on Saturday, and also to say that after conferring with President of

United States he may have to modify the date fixed for opening the discussion on the commercial relations between the two countries.

"He will advise me definitely to-day, and will endeavour to suit the convenience of the representatives.

"He requested me to inform you of the contents of above letter, which I forwarded by post to-day."

As no further communication was received, we assumed that the arrangement for our meeting on the following Monday stood, and Sir John Thompson, Mr. Foster and myself left for Washington, and reached the Arlington Hotel at 11 o'clock on Sunday evening.

Early on Monday morning I received the following note from Sir J. Pouncefote:—

"BRITISH LEGATION, WASHINGTON, 6th April, 1891.

"(Private.)

"DEAR SIR CHARLES,—Your movements have been so rapid that you must have left Ottawa before the receipt of the telegram I sent you on Friday morning, informing you of the contents of a letter addressed to you by Mr. Blaine, after your departure from Washington on Thursday, in which he expressed the desire of the President to postpone the meeting fixed for to-day. I am anxious to see you as soon as possible to explain the situation to you.

"I forwarded your letters to Ottawa, thinking that you would delay your departure in consequence of Mr. Blaine's letter.

"JULIAN PAUNCEFOTE."

We all called upon Sir Julian at 10 o'clock, when he handed me the following letter from Mr. Blaine, and expressed his regret that his telegram of the 5th April had not been received in time to prevent our leaving Ottawa:—

"17 MADISON PLACE, WASHINGTON, D.C., 2nd April, 1891.

"MY DEAR SIR CHARLES,—After conference with the President I find I may have to modify the date which we agreed upon for opening the discussion on the commercial relations of the two countries. I shall be able to advise you definitely to-morrow. In any event, I shall endeavour to adjust the time to the convenience of the gentlemen who will represent the Dominion in the conference.

"Meanwhile, I hope you will do me the honour to dine with me on Saturday evening at eight o'clock, to met a few ladies and gentlemen of Washington society.

"I am, &c.,

"JAMES G. BLAINE."

Sir J. Pouncefote's telegram of the 5th April, read as follows:—

"Private. Mr. Blaine is surprised that the Canadian representatives left for Washington after his letter to Sir Charles Tupper, of which I telegraphed the contents to Your Excellency on Friday morning. He says that the President owing to pressure of other questions desires to postpone the conference until October. Sir Charles has telegraphed that he and his colleagues will arrive here to-night."

Sir J. Pouncefote called upon Mr. Blaine at his house, and informed him of our arrival, when he expressed a wish to see us as soon as convenient, and we waited upon him immediately. He expressed great regret at our not having received his message of the 5th April in time to avoid the necessity of our journey. He said that the President, who was practically the Prime Minister under their system, was extremely anxious to be in Washington during the negotiations, and had requested that they might be deferred to a later date, as he had made arrangements which could not be changed for an immediate visit to the west. Mr. Blaine also mentioned that the President said that, as there would be no meeting of the Senate before December, no serious inconvenience, he trusted, would arise from the postponement. He was conferring further with the President as to the time when they would like to open the negotiations.

You have of course since learned that the date of the proposed meeting at Washington has been fixed for the 12th October next. This at first sight would seem to involve a long delay, but as the session of your Parliament would preclude any meeting before the 1st July, and as the hot weather at Washington obliges those who can do so to go to the sea-side during the summer months, October is really as early a period as it was practicable to arrange.

Sir John Thompson, Mr. Foster and myself left immediately for New York, and they returned to Ottawa, and I sailed for England on Wednesday, the 8th instant.

I may add that, after carefully thinking over all that has occurred, I consider there is good reason to hope that a fair arrangement may be made with the Government of the United States in relation to the important questions contained in Lord Stanley's despatch to Lord Knutsford of the 13th December, 1890.

I remain yours faithfully,

The Right Hon. Sir JOHN A. MACDONALD, G.C.B.,

CHARLES TUPPER.

&c.

&c.

&c.

MESSAGE.

(38a)

STANLEY OF PRESTON.

The GOVERNOR GENERAL transmits to the HOUSE OF COMMONS further papers relating to the extension and development of trade between the United States and the Dominion of Canada, including the Colony of Newfoundland.

GOVERNMENT HOUSE,

OTTAWA, 16th June, 1891.

Lord Knutsford to Lord Stanley of Preston.

Telegraphic.

22nd October, 1890.

The following is the substance of a telegram received by the Marquis of Salisbury from the British Minister at Washington, 17th instant:—

“With reference to your Lordship’s despatch of the 10th ultimo, introducing Mr. Robert Bond, I have presented that gentleman to Mr. Secretary Blaine, and negotiations are now going on with a view to an independent arrangement between the United States and Newfoundland relating to the fisheries. Before negotiations go further I would suggest that the Government of Canada might be informed, as they might wish to negotiate on the same lines as regards the Provinces of New Brunswick and Nova Scotia.”

Lord Stanley of Preston to Lord Knutsford.

Received 31st October, 1890.

Telegraphic.

“Referring to your telegram of the 22nd, Dominion Government are not informed of Bond’s powers or instructions, and wish for communication thereof, and to have opportunity reserved for Canada to be included in any arrangement.”

Colonial Office to the High Commissioner for Canada.

DOWNING STREET, 1st November, 1890.

SIR,—I am directed by Lord Knutsford to acknowledge the receipt of your letter of the 27th ultimo, drawing attention to the objection entertained by the Government of Canada to a separate fishery arrangement between the United States and Newfoundland, and to acquaint you that the representation which it contains will receive very careful consideration.

I am, &c.,

The High Commissioner for Canada.

JOHN BRAMSTON.

Colonial Office to Foreign Office.

DOWNING STREET, 3rd November, 1890.

SIR,—I am directed by Lord Knutsford to transmit to you, to be laid before the Marquis of Salisbury, a paraphrase of a telegram received from the Governor General

of Canada, relating to the negotiations proceeding at Washington on the subject of an arrangement between the United States and Newfoundland relating to the fisheries.

Lord Knutsford proposes, with Lord Salisbury's concurrence, to reply to the Governor General in the terms of the telegram of which a draft is enclosed; and he would suggest, for Lord Salisbury's consideration, whether it would not be advisable that the Governor General's telegram and the reply should be telegraphed to Sir Julian Pauncefote, with instructions to consider in what way the wish of Canada to be included in any arrangement may best be made, and to telegraph home for consideration the terms of any convention or arrangement which he thinks could be obtained or is desirable.

The Under Secretary of State,
Foreign Office.

I am, &c.,

JOHN BRAMSTON.

Foreign Office to Colonial Office.

FOREIGN OFFICE, 4th November, 1890.

SIR,—With reference to your letter of yesterday's date, respecting the proposed negotiations between Newfoundland and the United States for an arrangement as to the fisheries question, I am directed by the Marquis of Salisbury to request that you will state to Lord Knutsford that he concurs in the proposed reply to Lord Stanley's telegram of the 30th ultimo.

I am to add that, in accordance with the suggestion made in your letter, the telegraphic correspondence with the Governor General of Canada on this subject has been communicated by telegraph to Her Majesty's Minister at Washington.

Sir Julian Pauncefote has also been requested to report in what way he considers that the wish of the Canadian Government to be included with that of Newfoundland in any arrangement made with the United States can best be carried out.

I am, &c.,

P. W. CURRIE.

The Under Secretary of State,
Colonial Office.

Lord Knutsford to Lord Stanley of Preston.

Telegraphic.

4th November, 1890. Your telegram of 30th October. Bond has no powers or instructions. Having decided to visit Washington, he was introduced to the British Minister in order to consider with him whether, as Newfoundland delegates believed, United States would, under McKinley law, remit or reduce duty on Newfoundland fish if colony granted reciprocally facilities for procuring bait. No wider arrangement suggested. Her Majesty's Government are in communication with British Minister respecting wish of Dominion Government that Canada should be included in any arrangement.

Foreign Office to Colonial Office.

FOREIGN OFFICE, 6th November, 1890.

SIR,—With reference to my letter of the 4th instant, I am directed by the Marquis of Salisbury to transmit herewith, for the information of Secretary Lord Knutsford, a paraphrase of a telegram from Sir J. Pauncefote, giving the substance of a draft convention he has privately communicated to Mr. Blaine for an arrangement as to fishing questions and trade regulations between the United States and Newfoundland.

I am to point out that Sir J. Pauncefote defers replying to the inquiry addressed to him as to the best mode of including Canada in such an arrangement until he has discussed the draft with Mr. Blaine.

I am, &c.,

P. W. CURRIE.

The Under Secretary of State,
Colonial Office.

Paraphrase of Telegram from Sir J. Pouncefote.

WASHINGTON, 5th November, 1890.

In reply to your Lordship's telegram of yesterday, I beg to state that Sir W. Whitway's memorandum of the 12th July corresponds exactly with the convention I have communicated to Mr. Blaine, except that, in accordance with Mr. Bond's request, crude minerals have been added.

The 1st Article provides that the privilege of purchasing bait fishes in Newfoundland in the same manner as vessels of the colony shall be accorded to United States fishing vessels; also that United States fishing vessels shall be allowed to touch and trade, sell their fish and oil, and procure supplies, on condition that they pay the same dues as Newfoundland vessels, and conform to the harbour regulations.

In Article II provision is made that facilities shall be given for recovery of penalties in United States Courts under bonds against United States citizens.

Under Article III the United States are to admit duty free the produce of the fisheries of Newfoundland, including cod and seal oil, and also the produce of mines.

By Article IV it is agreed that the Convention shall hold good for ten years, and that after that period it shall, subject to one year's notice, continue from year to year.

I hope to discuss the above proposal with Mr. Blaine in the course of a few days, and until I have done so I would ask to be allowed to defer my reply to your Lordship's inquiry as to the best mode of including Canada in the arrangement.

*Lord Knutsford to Lord Stanley of Preston.**Telegraphic.*

(Extract.)

November 15th, 1890. Referring to my telegram of the 4th instant, following is substance of draft proposed Convention between Newfoundland and United States.

Article I. United States vessels to have privilege of purchasing bait in Newfoundland, same conditions as Newfoundland vessels, and to be allowed to touch and trade, sell their fish and oil, and procure supplies, paying same dues as Newfoundland vessels, and conforming to harbour regulations.

Article II. Facilities shall be given for recovery in United States Courts of penalties incurred under bonds by United States citizens.

Article III. United States to admit duty free Newfoundland codfish, cod oil, seal oil, herring, salmon, lobsters, &c., and crude produce of mines.

Article IV. Convention to continue for ten years, and thereafter from year to year, subject to a year's notice. Convention ends.

Lord Stanley of Preston to Lord Knutsford.

Received 19th November, 1890.

Telegraphic.

(Extract.)

Have received your telegram of 15th instant. My Government view with the utmost alarm proposed convention between Newfoundland and the United States.

It affects fisheries interests of Canada as well as those of Newfoundland, and places fisheries and other products of Canada on different footing from those of Newfoundland in United States markets.

Sanction of Newfoundland treaty by Her Majesty's Government would materially aid United States policy by placing Canada at disadvantage with neighbouring Colony of Newfoundland and producing discontent here.

Dominion Government respectfully remonstrate in strongest terms against signature of proposed convention at Washington. I will telegraph text of Council Minute when received.

Lord Knutsford to Lord Stanley of Preston.

25th November, 1890.

Your telegram of the 19th instant received. Her Majesty's Government sorry to learn that your Government entertain apprehensions of injury to Canada from the proposed separate arrangement between Newfoundland and the United States. Desirable to have a statement showing fully in what way it is feared the injury would result under the conditions of the case. Her Majesty's Government have offered to try to have the proposed arrangement extended so as to embrace Canada or to negotiate for Canada with the assistance of Canadian delegates a separate Convention more suitable to her circumstances. In the present urgent condition of Newfoundland unfortunate feeling will be excited by opposition of Canada to the efforts of Newfoundland to relieve its distress. You may communicate to Pauncefote the substance of your telegram to me. Her Majesty's Government will delay Newfoundland Convention, if Canadian negotiations can be entered upon at once on lines proposed by your Ministers so that both may proceed *pari passu*. Any Reciprocity Treaty between Canada and the United States, would, as previously, be framed so as not to place imports from this country at a disadvantage, and it is presumed that Canada would wish to retain control over her tariff with a view to possible extension of her trade with the Colonies and England.

Lord Stanley of Preston to Lord Knutsford.

(Extract from telegram.)

26th November, 1890.

With reference to your telegram of the 25th instant, Canadian Government appreciates the consideration evinced by Her Majesty's Government in delaying the Newfoundland Convention.

Canadian Ministers are prepared to open negotiations immediately on lines indicated in my telegram of the 19th, provided their representatives at Washington could be commissioners associated with British Minister and empowered to negotiate directly instead of being merely delegates.

As the Newfoundland arrangement is inapplicable in some details and incomplete in others desired by Canada, they think that a separate convention will be necessary rather than an inclusion in the Newfoundland one.

* . * * * *

As permitted by you, I am about to communicate to Pauncefote the substance of these telegrams.

Lord Stanley of Preston to Sir J. Pauncefote.

(Extract from telegram.)

28th November, 1890.

The text of the Draft Convention between Newfoundland and the United States was telegraphed me on the 15th instant by Her Majesty's Government. I was informed of Blaine's views, as well as of your suggestion that we should send delegates to Washington unofficially simply to discuss matters, and the inclusion of transit in bond in the negotiations was suggested. On 19th a reply was sent to the effect that proposed Convention was viewed with utmost alarm by this Government. Fishery and other products of Canada were placed by it on a different footing in United States markets from those of Newfoundland. If Convention sanctioned Canada would be placed at disadvantage as compared with Newfoundland, discontent produced in the Dominion. * * *

We are prepared to arrange for commercial relations with United States being liberally extended, and wish that United States may be so informed. This Government objects to sending delegates to Washington unofficially, as liable to give rise to misunderstanding, but is ready at once to open formal negotiations with sanction of Her Majesty's Government.

* * * They protest meanwhile against the signature of the Conven-

tion. On 25th Her Majesty's Government replied that Newfoundland Convention would be delayed if Canadian negotiations can be opened at once and both proceed simultaneously. * * * On 26th I replied, Canadian Government greatly appreciate delay of Newfoundland Convention. They would negotiate immediately on lines indicated in my telegram of the 19th if their representatives could be commissioners empowered to negotiate directly instead of merely delegates. A separate convention is considered necessary, the Newfoundland Convention being inapplicable in some details and otherwise incomplete.

* * * * *

Lord Knutsford to Lord Stanley of Preston.

Paraphrase.

4th December, 1890.

With reference to your despatch of the 19th ultimo, Her Majesty's Government agree to the Minister at Washington being assisted by one or more Canadian Plenipotentiaries, if United States consent to negotiations.

Lord Stanley of Preston to Lord Knutsford.

(Extract from telegram.)

5th December, 1890.

Assent given in your telegram of the 4th instant has given much gratification to the Canadian Government.

* * * * *

I have unofficially communicated the substance of your answer to the British Minister at Washington.

May we now make definite official proposal through the British Minister to the United States Government?

Sir Julian Pauncefote to Lord Stanley of Preston.

(Extract from telegram.)

7th December, 1890.

I am informed by the Secretary of State that his Government could not respond to the suggestion of a formal Commission until a basis of arrangement had been first reached. He expresses a strong desire, however, to conclude a wide Reciprocity Treaty.

* * * * *

Any indications which Your Excellency could give me in the meantime of the views of your Government would probably expedite the appointment of a Commission. The above has been repeated to London.

Lord Knutsford to Lord Stanley of Preston.

(Paraphrase of telegram.)

10th December, 1890.

Sir Julian Pauncefote's telegram to you of the 7th instant; as soon as the views of your Ministers have been communicated to him, Her Majesty's Government would be glad to have an opportunity of considering them.

Lord Stanley of Preston to Lord Knutsford.

(Paraphrase of telegram.)

10th December, 1890.

Referring to your telegram of to-day: information required has been promised me on Friday by the Prime Minister, who called this morning.

Lord Stanley of Preston to Lord Knutsford.

GOVERNMENT HOUSE, OTTAWA, 13th December, 1890.

MY LORD,—I had the honour to send to Your Lordship to-day a telegraphic message, of which the following is the substance :

“With reference to my telegram of the 10th instant, this Government is desirous * * * * to propose a Joint Commission such as that of 1871, with authority to deal without limitation, and to prepare a treaty respecting the following subjects :

1. Renewal of the Reciprocity Treaty of 1854, with the modifications required by the altered circumstances of both countries, and with the extensions deemed by the Commission to be in the interest of Canada and the United States.

2. Reconsideration of Treaty of 1888 with respect to the Atlantic fisheries, with the aim of securing the free admission into United States markets of Canadian fishery products in return for facilities to be granted to United States fishermen to buy bait and supplies and to tranship cargoes in Canada. All such privileges to be mutual.

3. Protection of mackerel and other fisheries on the Atlantic Ocean and in inland waters also.

4. Relaxation of seaboard coasting laws of the two countries.

5. Relaxation of the coasting laws of the two countries on the inland waters dividing Canada from the United States.

6. Mutual salvage and saving of wrecked vessels.

7. Arrangements for settling boundary between Canada and Alaska.

The treaty would of course be *ad referendum*.

The substance of the minute of council, with exception of the recital is contained in the foregoing * * * * *

I have, &c.,

STANLEY OF PRESTON.

Lord Knutsford to Lord Stanley of Preston.

(Extract from Telegram.)

2nd January, 1891.

Minister at Washington has communicated to United States Secretary of State substance of your telegram of 13th December. Mr. Blaine replied that to endeavour to obtain the appointment of the formal commission to arrive at the Reciprocity Treaty would be useless, but that the United States Government was willing to discuss the question in private with Sir Julian Pauncefote and one or more delegates from Canada, and to consider every subject as to which there was hope of agreement on the ground of mutual interests; if not, and to risk so grave a step until by private discussion he had satisfied himself that good ground existed for expecting an agreement by means of a commission. He added that he would be prepared to enter into private negotiations at any time after March 4th.

* * * * *

No. 5.

Sir Julian Pauncefote to Lord Stanley of Preston.

WASHINGTON, January 13, 1891.

MY LORD,—In accordance with instructions which I have received from the Marquis of Salisbury, I have the honour to transmit to Your Excellency the enclosed copy of a draft convention to improve commercial relations between the United States and the Colony of Newfoundland, which was communicated to me on the 6th instant by Mr. Blaine as showing to what extent and on what conditions the Government of the United States are willing to enter into an arrangement of the kind proposed by the Government of Newfoundland in the month of October last.

I have, &c.,

JULIAN PAUNCEFOTE.

His Excellency the Right Honourable Lord STANLEY OF PRESTON, G.C.B.

CONVENTION between Great Britain and the United States of America for the improvement of commercial relations between the United States and Her Britannic Majesty's Colony of Newfoundland.

The Governments of Great Britain and the United States, desiring to improve the commercial relations between the United States and Her Britannic Majesty's Colony of Newfoundland, have appointed as their respective Plenipotentiaries, and given them full powers to treat of and conclude such convention, that is to say :

Her Britannic Majesty on her part has appointed Sir Julian Pauncefote, and the President of the United States has appointed on the part of the United States James G. Blaine, Secretary of State.

And the said Plenipotentiaries, after having exchanged their full powers, which were found to be in due and proper form, have agreed to and concluded the following Articles :—

ARTICLE I.

United States fishing vessels entering the waters of Newfoundland shall have the privilege or purchasing herring, caplin, squid and other bait fishes at all times on the same terms and conditions, and subject to the same penalties, in all respects as Newfoundland vessels.

They shall also have the privilege of touching and trading, selling fish and oil, and procuring supplies in Newfoundland, conforming to harbour regulations, but without other charge than the payment of such light, harbour and customs dues as are or may be levied on Newfoundland fishing vessels.

ARTICLE II.

Dry codfish, cod oil, seal oil, sealskins, herrings, salmon, trout and salmon trout, lobsters, cod roes, tongues and sounds, the products of the fisheries of Newfoundland, shall be admitted into the United States free of duty. Also all hogsheads, barrels, kegs, boxes, or tin cans, in which the articles above named may be carried, shall be admitted free of duty. It is understood, however, that "green" codfish are not included in the provisions of this Article.

ARTICLE III.

The officer of the Customs at the Newfoundland port where a vessel laden with the articles named in Article II clears, shall give to the master of said vessel a sworn certificate that the fish shipped were taken in the waters of Newfoundland, which certificate shall be countersigned by the Consul or Consular Agent of the United States, and delivered to the proper officer of Customs at the port of destination in the United States.

ARTICLE IV.

When this convention shall come into operation, and during the continuance thereof, the duties to be levied and collected upon the following enumerated merchandise imported into the Colony of Newfoundland from the United States shall not exceed the following amounts, viz:—

Flour, 25 cents per barrel.

Pork, 1½ cents per pound.

Bacon and hams, tongues, smoked beef and sausage, 2¼ cents per pound, or \$2.50 per 112 pounds.

Beef, pigs' heads, hocks and feet, salted or cured, ½ cent per pound.

Indian meal, 25 cents per barrel.

Peas, 30 cents per barrel.

Oatmeal, 30 cents per barrel of 200 pounds.

Bran, Indian corn and rice, 12½ per cent. *ad valorem*.

Salt, in bulk, 20 cents per ton of 2,240 pounds.

Kerosene oil, 6 cents per gallon.

And the following articles imported into the Colony of Newfoundland from the United States shall be admitted free of duty :—

Agricultural implements and machinery imported by Agricultural Societies for the promotion of agriculture.

Crushing mills for mining purposes.

Raw cotton.

Corn for the manufacture of brooms.

Gas engines, when protected by patent.

Ploughs and harrows.

Reaping, raking, ploughing, potato digging and seed sowing machines to be used in the Colony.

Printing presses and printing types.

ARTICLE V.

It is understood that if any reduction is made by the Colony of Newfoundland at any time during the term of this convention, in the rates of duty upon the articles named in Article IV. of this convention, the said reduction shall apply to the United States.

ARTICLE VI.

The present convention shall take effect as soon as the laws required to carry it into operation shall have been passed by the Congress of the United States on the one hand, and by the Imperial Parliament of Great Britain and the Provincial Legislature of Newfoundland on the other hand. Such assent having been given, the convention shall remain in force for five years from the date at which it may come into operation, and further, till the expiration of twelve months after either of the High Contracting Parties shall give notice to the other of its wish to terminate the same; each of the High Contracting Parties being at liberty to give such notice to the other at the end of the said term of five years, or at any time afterwards.

ARTICLE VII.

This convention shall be duly ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof, and by Her Britannic Majesty; and the ratifications shall be exchanged at Washington on the 1st day of February, 1891, or as soon thereafter as practicable.

In faith whereof, we, the respective Plenipotentiaries, have signed this convention and have hereunto affixed our seals.

Done in duplicate, at Washington, this day of , in the year of our Lord one thousand eight hundred and

Lord Stanley of Preston to Lord Knutsford.

GOVERNMENT HOUSE, OTTAWA, 22nd January, 1891.

MY LORD,—As I have had the honour to inform Your Lordship yesterday by telegram, the Prime Minister of the Dominion Government has expressed his desire to dissolve the present Parliament at once.

It was elected in 1887, and the Dominion Government consider that many grave questions, such as those of the commercial and other relations between the United States and Canada can be best and most satisfactorily dealt with by a body of representatives who have been in immediate and recent touch with the electorate.

Concurring in the views of the Government, I have assented to the dissolution, which will take place in a month or six weeks' time.

I have, &c.,

STANLEY OF PRESTON.

The Right Honourable Lord Knutsford.

*(Extract.)**Lord Stanley of Preston to Lord Knutsford.*

GOVERNMENT HOUSE, OTTAWA, 30th January, 1891.

MY LORD,—I had the honour to send to Your Lordship to-day a telegraphic message, informing Your Lordship that I had received last night the Report of Council; that it recalled the Imperial Government's promise to delay the Newfoundland Convention until negotiations on behalf of Canada could proceed *pari passu*, and that it expressed the assent of the Canadian Government to the immediate commencement of negotiations. I stated that no responsibility for delay rested on this Government, and that negotiations would not be retarded by dissolution. *

* * * * *

I also said that Council insisted respectfully on the importance of the negotiations with Canada and those affecting Newfoundland proceeding *pari passu*, and that an examination of the proposed Convention made it clear that the rights of the fishermen of British North America would be completely nullified by the admission of Newfoundland to United States markets under the proposed Convention.

I also intimated that, while this Government has refused to discriminate against the United Kingdom, if such discrimination were allowed under the Newfoundland Convention, the Canadian people could not continue to believe in the importance of that principle as a safeguard of British interests.

I further informed your Lordship that Council strongly urged the necessity of any trade arrangement with the United States applying equally to all the British North American Provinces, and pointed out that a permanent discrimination in favour of United States trade seemed to be maintained by Article V of the Convention.

I have, &c.,

STANLEY OF PRESTON.

No. 17.

Lord Stanley of Preston to Sir Julian Pauncefote.

OTTAWA, 16th March, 1891.

SIR,—As the general elections in the Dominion of Canada are now over and as the Government of Sir John Macdonald has been sustained in power by a substantial majority I lose no time in addressing you once more upon the subject of reciprocity of trade between the Dominion and the United States.

I understand from previous communications that it is the wish of Mr. Blaine, without prejudice to the future appointment of a Commission or otherwise, to discuss with yourself and with one or more persons delegated by this Government the various questions which might become the subjects of reference to a Joint Commission: that such a conference should be of an unofficial character: and that it should afford an opportunity for considering on what points it would be likely that the two Governments could come to an agreement. It was also understood that any date prior to the 4th inst. would not be convenient to Mr. Blaine for such a meeting.

The Government of the Dominion would have preferred the appointment of a Joint Commission but they desire to defer as far as may be to the wish of the Secretary of State and I should be glad therefore if you will be good enough to ascertain from him at what date it will be convenient that the representatives appointed by the Canadian Government should proceed to Washington to confer with yourself and Mr. Blaine.

It will not be possible for Sir John Macdonald himself to leave Ottawa but this Government would propose that their views should be represented by the Hon. Sir John Thompson, Minister of Justice; the Hon. Sir Charles Tupper, Bart., High Commissioner from the Dominion in London; the Hon. George Foster, Minister of

Finance; and perhaps the Hon. M. Bowell, Minister of Customs. These gentlemen will be in full possession of the views of the Dominion Government and will be authorized to discuss any or all of the subjects mentioned in the basis of negotiations laid before Mr. Blaine on the 22nd of December and to decide in concert with yourself what steps should be taken for the appointment of a Joint Commission at an early date, should they succeed, as I trust they may, in convincing the Government of the United States that an agreement is probable on some, if not all, of these questions.

I should be obliged if Your Excellency will inform me by telegram or early despatch of the date when it will be convenient to you to receive the Canadian representatives for the purpose above mentioned.

I have, &c.,

STANLEY OF PRESTON.

His Excellency

Sir Julian Pauncefote, &c., &c., &c.

Lord Stanley of Preston to Sir Julian Pauncefote.

(Telegram.)

31st March, 1891.

High Commissioner, it had just been decided, must resume his duties without further delay. He will leave Ottawa to-day and return to London by way of Washington, where he will consult with you as to the advisability of telegraphing his colleagues to join him in the latter city.

Would Secretary of State, in the event of his remaining ill, wish meeting to occur in July, when Canadian Parliamentary Session will be over.

Sir Charles Tupper will also advise with you relative to the renewal of the *modus vivendi*.

STANLEY.

No. 13.

Sir Julian Pauncefote to Lord Stanley of Preston.

WASHINGTON, April 2nd, 1891.

MY LORD,—With reference to my despatch No. 12 of the 26th ultimo, transmitting a copy of a Note which I had addressed to Mr. Blaine on the receipt of Your Excellency's despatch marked No. 17, of the 16th ultimo, I have now the honour to transmit copy of a Note which I have received from Mr. Blaine in answer thereto.

I have, &c.,

JULIAN PAUNCEFOTE.

His Excellency

The Right Honourable

Lord Stanley of Preston, G.C.B.

Mr. Blaine to Sir Julian Pauncefote.

DEPARTMENT OF STATE, WASHINGTON, April 1st, 1891.

My dear Sir Julian,—

I duly received the Note which you did me the honour to address to me on the 20th of March. I regret that for many reasons I have been unable to make an earlier response.

For convenience sake I here quote the substantial part of your Note:

"In a Note, dated the 22nd of January last, I had the pleasure to inform you confidentially that the Canadian Government, in deference to your preference for an unofficial conference on the question of reciprocity, were disposed to meet your wishes in that respect."

"It was understood that you would be ready after the 4th of March to discuss the subject unofficially with me and one or more agents from Canada. I have now received a despatch from the Governor General of Canada, in which he requests me to ascertain whether the present time is convenient to you for that purpose, in which case the representatives appointed by the Canadian Government will proceed at once to Washington to confer in the manner proposed, on all or any of the subjects indicated in the bases of negotiation, of which I had the honour to place in your hands on the 22nd of December last."

A copy of the "basis of Negotiation" which you placed in my hands on the 22nd of December last, is appended hereto.

You told me if my memory is not in error that you were instructed by Lord Salisbury to propose the topics to the United States for discussion, and if possible for agreement.

I answered that I felt sure that the President would be unwilling to appoint a Commission to consider the propositions as they were stated, and furthermore that I should be unwilling to submit them to the President.

After some further conversation in which you repeated that the propositions were merely the bases upon which a discussion might be instituted, I replied that in any event I had not a moment to give to the subject until after the adjournment of Congress in March, but that after that date I would be willing to respond to your request "to have a full but private conference with the British Minister, and one or more Agents from Canada and go over every point of difference and consider every subject upon which a mutual interest could be founded."

"If an agreement is reached, all well: if not no official mention is to be made of the effort.

"Above all things it is important to avoid public reference to the matter.

"This the President will insist upon."

While no notes were exchanged between us I carefully minuted my modification of the paper you left with me containing Lord Salisbury's proposition, and did so immediately after you left the Department. You will observe the private character which I wished to impart to the Conference is recognized by you a month later in your note of 27th January, when you called the correspondence "Confidential."

In view of the fact that you had come to the State Department with the proposals, and that the subject was then for the first time mentioned between us, and in view of the further fact that I agreed to a private conference as explained in my Minute, I confess that it was a surprise to me when several weeks later during the Canadian canvass, Sir John Macdonald and Sir Charles Tupper, both stated before public assemblages that an informal discussion of a reciprocity treaty would take place at Washington after the 4th of March, by the initiation of the Secretary of State.

I detail these facts because I deem it important, since the matter has been for some weeks open to public remark, to have it settled that the conference was not "initiated" by me, but on the contrary that the private arrangement of which I spoke was but a modification of your proposal and in no sense an original suggestion from the Government of the United States.

With this explanation it only remains for me to say that gentlemen representing the Dominion of Canada and proposing to discuss the commercial relations of the two countries may be assured of a courteous and cordial reception in Washington by the Government of the United States.

I have, &c.,

J. G. BLAINE.

Joint Commission to be appointed as in 1871, authorized to deal without limitation, and to prepare a Treaty respecting the following subjects:—

1. Renewal of Reciprocity Treaty of 1854, subject to such modifications as the altered circumstances of both countries require, and to such extensions as Commission may deem to be in the interests of United States and Canada.
 2. Reconsideration of Treaty of 1888, respecting Atlantic fisheries, with view of effecting free admission of Canadian fishery products into markets of United States in exchange for facilities for United States fishermen to purchase bait and supplies, and to tranship cargoes in Canada. All such privileges to be mutual.
 3. Protection of mackerel and other fisheries on the Atlantic Ocean and in inland waters.
 4. Relaxation of coasting laws of both countries on seaboard.
 5. Relaxation of coasting laws of both countries on inland waters between United States and Canada.
 6. Mutual salvage and saving of wrecked vessels.
 7. Arrangements for delimitation of boundary between Alaska and Canada.
- Such Treaty to be, of course, *ad referendum*.

Sir Julian Pauncefote to Lord Stanley of Preston.

(Telegram.)

2nd April, 1891.

High Commissioner arrived yesterday. We had an interview with the Secretary of State this morning, who has named Monday, 6th, for the opening of an unofficial conference with the delegates from the Dominion.

High Commissioner has gone to Ottawa to-day. He proposes to return in company with the other delegates in time for the Conference. I transmit by post to-day a copy of Secretary of State's reply to my note of the 20th.

PAUNCEFOTE.

Sir Julian Pauncefote to Lord Stanley of Preston.

(Telegram.)

3rd April, 1891.

Will you kindly communicate following message to High Commissioner:—
“Secretary of State wrote to you after your departure yesterday to say that after conferring with the President of the United States he may have to modify the date fixed for opening the discussion on the commercial relations between the two countries. He will advise me definitely to-day, and will endeavour to suit the convenience of the representatives. He requests me to inform you of the contents of above letter.

Sir Julian Pauncefote to Governor General.

(Telegram.)

WASHINGTON, April 5th 1891.

Private: Secretary of State is surprised that Canadian representatives left for Washington after his letter to High Commissioner of which I telegraphed the contents to Your Excellency on Friday morning. He says that the President owing to pressure of other questions desires to postpone the conference until October. High Commissioner has telegraphed that he and his colleagues will arrive here to-night.

PAUNCEFOTE.

Sir Julian Pauncefote to Lord Stanley of Preston.

(Paraphrase of Telegram.)

6th April, 1891.

Sir Charles Tupper and his colleagues left Washington this afternoon. We had friendly conversation with the Secretary of State this morning.

The conference was adjourned, and it now stands fixed for Monday, 12th October. Despatch follows.

PAUNCEFOTE.

Lord Stanley of Preston to Sir Julian Pauncefote.

GOVERNMENT HOUSE, OTTAWA, 14th April, 1891.

SIR,—I have the honour to acknowledge the receipt of your despatch No. 15 of the 8th instant, enclosing a note from Mr. Blaine in which he suggests the 12th of October next as the date agreeable to the United States Government for opening the Conference at Washington regarding reciprocal trade relations between the two countries.

In reply I shall be obliged if your Excellency will be good enough to inform Mr. Blaine that the representatives of the Canadian Government will readily hold themselves at disposal for the purpose mentioned in your despatch now under acknowledgment and at the date named by the United States Government.

I have, &c.,

STANLEY OF PRESTON.

His Excellency Sir JULIAN PAUNCEFOTE.

COPY

(38b.)

OF A REPORT OF THE HONOURABLE THE PRIVY COUNCIL, of the 4th November, 1890 :—Relative to a proposal made by the government of Canada to the governors of the British West India Islands and of British Guiana for the extension of trade, together with correspondence, etc., referring to the same subject.

By order.

J. A. CHAPLEAU,
Secretary of State.

REPORT of a Committee of the Honourable the Privy Council, approved by His Excellency the Governor General in Council on the 4th November, 1890.

The committee of the privy council have had under consideration a despatch dated 10th October, 1890, from the high commissioner for Canada in London, respecting the renewal of negotiations with Spain for an enlargement of commercial relations between the Spanish Antilles and the dominion of Canada.

The sub-committee of council to whom the despatch was referred, are of opinion that the present time is opportune for taking up the negotiations which, owing to various circumstances affecting the fiscal relations of Spain and Cuba, were allowed to lie over in 1889 with a view to conclude, if possible, arrangements which by a mutual reduction of duties on prime articles of export from both countries would cause increased and beneficial trade between the two countries.

The sub-committee are also of opinion that overtures should be made to the British West India Islands upon a basis exactly equivalent to that upon which the negotiations with Spain are to proceed.

The several islands produce in great abundance raw materials largely consumed in Canada, whilst on the other hand they are obliged to import very largely of staple products such as Canada produces and can supply as economically as the United States whence they are now largely obtained.

The sub-committee observe that with the object of opening up and extending this trade, Canada has established three steamship lines to Cuba, Jamaica, and the Windward Islands and Demerara respectively, which by at least regular monthly sailings afford an excellent means of inter-communication.

The necessity of return cargoes for the proper maintenance of these lines is apparent, and the certainty of such return cargoes would be assured if mutual concessions in the way of reduced duties on staple articles were made. Raw sugar and molasses must always constitute the main portion of such return cargoes.

An examination of the trade returns shows that Canada consumes yearly over 200,000,000 pounds of raw sugar, a large amount of tropical fruits and valuable woods, and other products of tropical climates which the West Indies produce, and also that almost all the staple edibles consumed in those islands can be supplied by Canada. In manufactured goods also the wants of the people in these islands can be well met by Canadian manufacturers. The revenue requirements on both sides render it impossible to arrange for a free admission of these various articles, but a plan of mutual reduction would without doubt tend greatly to stimulate reciprocal trade.

The sub-committee in view of the above recommend that the high commissioner for Canada who has been made co-plenipotentiary with Sir Clare Forde, Her Majesty's minister at Madrid, for the purpose of conducting negotiations with Spain in behalf of Canada be empowered to proceed upon favourable opportunity to Madrid and to renew the negotiations which were interrupted in 1889, and that he be instructed to conduct the negotiations upon the following basis :—

1. A reduction in Canadian duties on raw sugar imported from the Spanish Antilles into Canada for refining purposes, such reduction, however, not to exceed a maximum of 30 per cent. of the present duties.

2. In return for this the Spanish government to admit at equivalently reduced duties into their islands, grain, flour, fish, coal, lumber of all kinds, vegetables, including potatoes, animals and their products, and such manufactured goods as may be agreed upon.

3. That the dominion government has at its own expense, subsidized a monthly line of steamers from Halifax to Cuba, the Spanish government should either consent to bear half the expense of this line or of any improved steamship communication which may be mutually agreed upon or to allow in consideration thereof an equivalent reduction of duties upon Canadian products imported into Cuba and the other Spanish West India Islands.

The sub-committee further recommend that the British West India Islands and British Guiana be admitted to trade relations with Canada on the same lines as laid down in the proposed negotiations with Spain respecting the Spanish West India Islands, and that the minister of finance be authorized to confer unofficially with such of the governors of the British West India Islands as he may find it convenient to visit with a view to ascertain the disposition of their governments with reference to improved reciprocal trade with Canada.

The committee submit the above recommendations for your excellency's approval.

JOHN J. MCGEE, *Clerk Privy Council.*

MEMORANDUM.

The following is a copy of letters sent to the undermentioned governors, relative to proposals made by the government of Canada for extension of trade with their respective colonies :—

SIR,—The government of the dominion of Canada, with a view to a mutually beneficial extension of trade between that country and the British West India Islands, has authorized me to make the following proposals to your government :

1st. The government of Canada will ask such legislation as will permit the introduction of all sugars, being the product of the British West India Islands, to be used for refining purposes at a reduction from the present duty of about 25 per cent., and of fruits being the product of the said islands at a reduced differential duty to be agreed upon.

2nd. In return for this differential treatment of sugars and fruits, the British West India Islands are asked to accord an equivalent differential treatment to the products of Canada, imported into their territory, comprised under the following heads :—

- (a.) The products of the forest.
- (b.) The products of the sea.
- (c.) Agricultural products of all kinds.
- (d.) Animals and their products.
- (e.) Coal.
- (f.) Such manufactured articles as may be agreed upon.

As an earnest of its desire to enlarge its trade relations with the British West Indies, the government of Canada has already made arrangements to establish two important lines of regular steam communications—one to make sixteen trips per year between St. John and Demerara, touching at all the principal Leeward and Windward

Islands, and one to make twelve trips per year between Halifax and Jamaica—the cost of which to Canada will amount to about eighty-eight thousand dollars per year.

In return for these services which are of equal benefit to both countries, the government of Canada confidently expects the co-operation of your government in the way of reasonable concessions to the lines established, and compensating liberal differentials upon the Canadian products above mentioned.

If the principle of this proposal is accepted by your government the details can be arranged either by correspondence or by a deputation from the British West Indies to the Canadian government at Ottawa.

May I ask your earnest and prompt consideration of this proposal and the favour of an answer thereto at your earliest convenience.

I have, &c.,

GEORGE E. FOSTER, *Minister of Finance.*

Sir WALTER J. SENDALL, K.C.M.G., Governor and Commander-in-Chief, Barbadoes.

Sir W. A. HAYNES-SMITH, K.C.M.G., Leeward Islands.

Sir WALTER HELEY HUTCHISON, &c., &c., Windward Islands.

Sir WM. ROBINSON, K.C.M.G., Trinidad.

Sir AMBROSE SHEA, K.C.M.G., &c., &c., Bahamas.

Lieut.-Gen. E. NEWDIGATE-NEWDIGATE, C.B., &c., &c., Bermuda.

Sir HENLY A. BLAKE, K.C.M.G., &c., &c., Jamaica.

The Rt. Hon. Viscount GORMANSTON, K.C.M.G., Governor of British Guiana.

NOTE.—The propositions made to the governors of Barbadoes and Trinidad were personally acknowledged, and their contents forwarded to the secretary of state for the colonies for the views of the home government, before further action should be taken.

LEEWARD ISLANDS,

GOVERNMENT HOUSE, ANTIGUA, 24th January, 1891.

SIR,—I have the honour to acknowledge the receipt of your letter conveying the proposition of the government of Canada for the establishment of wider and more permanent trade relations with this colony; and to state in reply that I have submitted the questions involved for the consideration of Her Majesty's principal secretary of state for the colonies, and that I await his lordship's instructions.

I have, &c.,

W. F. HAYNES-SMITH.

The Hon. GEO. E. FOSTER, B.A., D.C.L., Minister of Finance, Canada.

GRENADA, 18th December, 1890.

SIR,—I have received your letter of the 28th November, making certain proposals with regard to reciprocity between the dominion of Canada and the Windward Islands.

As your proposals involve questions of Imperial interests, I do not feel justified in expressing any opinion on them in my official capacity, without first communicating with the secretary of state for the colonies.

I shall address you again on the subject in due course.

I have, &c.,

WALTER HELEY HUTCHISON.

The Hon. GEORGE E. FOSTER.

GOVERNMENT HOUSE, NASSAU, N.P., 2nd April, 1891.

SIR,—with reference to your letter of the 9th February, on the subject of trade relations between the dominion of Canada and the West Indies, I beg to state that the matter has been fully considered by the government and I am to advise you of their views.

2. This colony does not produce sugar. Our exports are fruit and sponges, and in the early future hemp will be the largest export. In the United States, which is at present our chief market, no duties are imposed and we consequently have no benefit in this respect to receive from Canada.

3. But we are not, therefore, insensible to the value of commercial relations between the dominion and this colony, and are anxious that the closest connection should be established. Many of the productions of Canada may be imported here to the advantage of both countries, and in this view I would enumerate lumber of all kinds, hay, oats, cheese, butter, and other articles, as well as manufactures of leather, cotton, &c. The precise terms of an arrangement cannot be dealt with in the absence of information as to what your views would be of the situation I describe, but it is decided that a member of this government will visit Canada during the summer and discuss the whole subject with you with a view to a satisfactory conclusion.

I have, &c.,

A. SHEA, *Governor.*

COLONIAL SECRETARY'S OFFICE,

BERMUDA, 25th March, 1891.

SIR,—With reference to your communication dated the 9th ultimo, I have the honour by direction of his excellency the governor to inform you that the government of Bermuda fully appreciates the importance of the action taken by the government of the dominion of Canada in establishing regular steam communication between the dominion, Bermuda and the West Indian Islands, and views with satisfaction the attempt now proposed to be made to further extend the trade relations between these places.

This government will not be prepared, however, to take any definite action on the proposals contained in your communication until the views of the legislature of this colony have been ascertained. If they should prove favourable, further communication will be made with your government, with the object of ascertaining on what lines it would be practicable to arrange for reciprocal trade relations between the dominion and this colony.

I have the honour to be, sir, your most obedient servant,

ARCHIBALD ALISEN, *Colonial Secretary.*

KING'S HOUSE, JAMAICA, 2nd April, 1891.

SIR,—I am desired by the governor to acknowledge the receipt of your letter dated 9th February, on the subject of establishing a reciprocal differential tariff between the British West Indies and Canada.

As the letter has not reached his excellency through the usual channel, he presumes that it is an unofficial intimation of the direction in which Canada is prepared to meet the question,

His excellency has not placed the matter before his privy council, but he sees great difficulties in the way of arranging such a differential tariff as you speak of. The most important point would be whether such reciprocal arrangements could be made with one or more of the West Indian colonies to the exclusion of others. Apart from the question of reciprocity the action of Mr. Brown, M.P., commissioner for Canada at our exhibition, will, his excellency has no doubt, largely increase the trade between Jamaica and the dominion of Canada.

I have the honour to be, sir, your obedient servant,

GEORGE FITZGERALD, *P.S.*

The Hon. GEORGE E. FOSTER, Minister of Finance.

GOVERNMENT SECRETARY'S OFFICE,

GEORGETOWN, DEMERARA, 17th December, 1890.

SIR,—I am directed by governor, the Viscount Gormanston, to acknowledge the receipt of your letter of the 28th of November, relative to an extension of trade between the dominion of Canada and this colony.

2. You propose that in return for the differential treatment of sugars and fruits exported to Canada from British Guiana an equivalent differential treatment should be accorded to certain Canadian products imported into this colony.

3. While the governor is anxious in every way to facilitate and promote the extension of commercial relations between this colony and the dominion, his excellency cannot encourage the government of Canada to believe that the consent of this government will be given to any differential treatment which would exclude the sugars and fruits of the colony from admission to the markets of the United States upon the most favourable terms.

4. So far as concerns the granting of reasonable concessions to the line of steam communication established between Canada and British Guiana the government of the dominion may rely upon Lord Gormanston's support.

I have, &c.,

CHAS. BRUCE.

The Hon. GEORGE E. FOSTER.

CORRESPONDENCE

(38c.)

AND TELEGRAMS respecting the Spanish American treaty.

VICTORIA CHAMBERS, LONDON, 14th August, 1891.

SIR,—I duly received the following telegram from you of the 7th instant, on the subject of the treaty recently concluded between the United States and Spain :—

“Does treaty United States and Spain differentiate against Canada? If so, take immediate steps to protect Canada’s interests. Probably discussion may arise in House. Pray act promptly and advise.”

I at once telegraphed you as follows :—

“Not yet able obtain treaty. Understand Canada has benefit any lower tariff until expiration our existing treaty, June 30 next. Suggest getting copy treaty Pauncetote, and sending me instructions as to what government are prepared to do. Am asking fullest information from government here. Can I do anything further, meantime?”

I also addressed a letter to the secretary of state for the colonies, a copy of which I enclose for the information of the minister.

I subsequently received, on the 10th instant, your further telegram, as follows :—

“Please find out definitely opinion as to Canada’s position respecting temporary treaty Cuba.”

I immediately addressed a second communication to the Colonial Office, a copy of which is appended.

I received the following telegram from you on the 12th instant :—

“Referring to recent commercial arrangement United States and Spain, kindly request foreign office to ask Spanish ambassador if Canadian goods, same as enumerated in annexed schedule, will be admitted into Spanish West Indian Islands on same terms as United States goods? Kindly call attention to assurance given by Senor Moret, see your despatch 11th September, eighty-six, also to fact that United States to 1st January next gives nothing to Spanish colonies not given world, and then practically nothing except molasses not given by Canada.”

As requested, I at once brought the matter to the notice of the secretary of state for the colonies, and enclose a copy of my communication. As I understand from your telegram of the 11th instant, you have now in your possession copies of the treaty in question. I trust that the matter will at once be taken into consideration by the government, and that they will inform me as early as possible what steps they wish me to take in order to endeavour to secure the same advantages to the dominion as those obtained by the United States, and how far they are prepared to go.

I have also taken an opportunity of seeing Sir Robert Herbert, the under secretary of state for the colonies, in the absence of Lord Knutsford, and placed before him very fully the tenor of the telegrams which I have referred to above. After my conversation with Sir Robert I telegraphed you as follows :—

“Colonial office of opinion existing treaty Great Britain and Spain entitles us to any reductions extended to the United States by Cuba and Porto Rico until July 1st, when treaty expires.”

As soon as I receive any official communication from the colonial office upon the other points specially referred to in our telegraphic correspondence I will at once forward them to you, and, if necessary, telegraph to you their contents.

I may say that Sir Robert Herbert expressed to me the anxious desire of the colonial office, and of her majesty's government, to help me in any way that may be practicable to secure for the benefit of Canadian trade the advantages which have been extended to the United States under the treaty recently concluded between Spain and that country.

I am yours faithfully,

CHARLES TUPPER.

J. M. COURTNEY, Esq., Deputy Minister of Finance, Ottawa.

17 VICTORIA STREET, S. W., 8th August, 1891.

SIR,—I have this morning received the following telegram from the minister of finance of Canada :

“Does treaty United States and Spain differentiate against Canada? If so take immediate steps protect Canada's interests. Probably discussion may arise in House. Pray act promptly and advise.”

I should be much obliged if the secretary of state would be so good as to procure for me through the foreign office at his convenience a copy of the treaty recently concluded between Spain and the United States.

If her majesty's minister at Madrid has made any communication upon the subject to the government, as to the prospects of a new treaty between Spain and this country I should be glad if it could be communicated to me for the information of my government.

I am, &c.,

CHARLES TUPPER.

The Under Secretary of State, Colonial Office, S.W.

17 VICTORIA STREET, S.W., 11th August, 1891.

SIR,—With reference to my letter of Saturday on the subject of the treaty recently concluded between Spain and the United States, I beg to quote for the information of the secretary of state a telegram I have received this morning from the minister of finance at Ottawa :—

“Please find out definitely opinion as to Canadian position respecting temporary treaty Cuba”

I shall be obliged if you will enable me to reply to the question that is raised, at your convenience. According to the abstracts of the treaty in the press, it seems to me that Canada, under the terms of the existing treaty between this country and Spain, which expires on June 30th next, will until that time have the benefit of any tariff concessions extended by Spain to the United States in connection with the trade of the Spanish West Indies.

I trust I may soon be able to obtain a copy of the treaty, in order that I may see the nature of the concessions in question.

I am, &c.,

CHARLES TUPPER.

The Under Secretary of State, Colonial Office.

17 VICTORIA STREET, S.W., 12th August, 1891.

SIR,—With reference to previous letters, I beg to quote, for the information of the secretary of state for the colonies, a telegram I have to-day received from the minister of finance of Canada, respecting the treaty recently concluded between Spain and the United States :—

“Referring to recent commercial arrangement United States and Spain kindly request foreign office to ask Spanish ambassador if Canadian goods same as enumerated in annexed (?) schedule will be admitted into Spanish West Indian Islands on same terms as United States goods? Kindly call attention to assurance given by Senor

Moret, see your despatch eleventh September, eighty-six, also to fact that United States to first January next gives nothing to Spanish colonies not given world, and then practically nothing except molasses not given by Canada.

I shall be much obliged if Lord Knutsford will move the foreign office to cause an enquiry to be addressed to the Spanish authorities in the sense indicated in the above telegram, and to request her majesty's minister at Madrid to call the attention of the Spanish government to the assurance given by Senor Moret that "under no circumstances would British and colonial trade be placed at any disadvantage as compared with that of the United States of America with the Spanish Antilles." That assurance is contained in a letter from Sir Clare Ford to the late Earl of Iddesleigh, dated 19th August, 1886, which accompanied Mr. Wingfield's letter of the 9th September, in that year, to me.

I am, &c.,

CHARLES TUPPER.

The Under Secretary of State, Colonial Office, S.W.

17 VICTORIA STREET, S.W., 20th August, 1891.

DEAR SIR ROBERT HERBERT,—I am greatly obliged to you for your letter of the 18th instant, enclosing the answers received from the foreign office to my several questions.

Sir F. Clare Ford kindly wrote me saying that he would be glad to see me to-day at 3 o'clock, and I have just had an hour's conversation with him on the subject of our present commercial relations with Spain. He says that there can be no possible doubt and that he has been assured by the Spanish minister that Great Britain and her colonies will enjoy the concession given to the United States until the expiration of the Anglo-Spanish Treaty in June next, and he is also of the opinion that it would be premature to press Spain in reference to future arrangements, pending the final settlement of the French tariff.

In the meantime, I have this morning received from Mr. Courtney, deputy minister of finance of Canada, the following telegram:—

"Urge foreign office obtain Spain's assent our view treaty immediately. Trade with Spanish Island seriously threatened. Despatch now before governor. Copy will be forwarded."

From the tone of this message it appears to be obvious that Cuba is refusing to admit Canadian products on the terms stipulated in the treaty with Great Britain, and a serious derangement of Canada's trade would necessarily result from such a course. I trust that Lord Knutsford will move the foreign office to take such measures as will promptly avert the consequence of such action on the part of the Spanish government.

I shall be happy if you will advise me what steps are taken to meet this exigency, at your convenience.

Believe me, &c.,

CHARLES TUPPER.

VICTORIA CHAMBERS, 17 VICTORIA STREET,

LONDON, S.W., 4th September, 1891.

SIR,—Referring to previous correspondence respecting Canadian trade with the Spanish colonies, I am directed by the high commissioner to transmit, for your information, a copy of a letter, with enclosures, which he has received from the colonial office confirming the opinion that Canadian trade will, under the existing commercial convention between Great Britain and Spain, be entitled, until the 30th June, 1892, to advantages of a similar kind to those accorded by Spain to United States trade by the treaty recently concluded between those two countries.

I have the honour to be, sir, your obedient servant,

ARTHUR W. REYNOLDS, *Asst. Secretary.*

The Deputy Minister of Finance, Ottawa.

Foreign Office to Colonial Office.

FOREIGN OFFICE, 26th August, 1891.

SIR,—I am directed by the Marquis of Salisbury to acknowledge the receipt of your letters of the 17th and 20th instant, respecting the treatment to be accorded to Canadian trade in the Spanish colonies when the new commercial arrangement between Spain and the United States comes into operation; and in reply I am to state, for the information of Lord Knutsford, that Canadian trade will, under the existing commercial convention between Great Britain and Spain, enjoy, until the 30th June, 1892, advantages similar to those accorded by Spain to United States trade by the arrangement in question.

I am, &c.,

T. V. LISTER.

The Under Secretary of State, Colonial Office, S.W.

COLONIAL OFFICE, S. W., 1st September, 1891.

SIR,—With reference to your letter of the 17th ultimo, respecting Canadian trade with the Spanish colonies, I am directed by Lord Knutsford to transmit to you copies of a letter from the foreign office and a telegram addressed to the governor general of Canada on the subject.

I am, &c.,

R. H. MEADE.

The High Commissioner for Canada.

COPY of Telegram from Lord Knutsford to Lord Stanley of Preston, dated 27th August, 1891.

“Referring to your telegram of 20th August, Canadian trade will, under existing commercial convention between Great Britain and Spain, enjoy, until 30th June, 1892, advantages of a similar kind to those accorded by Spain to United States by arrangement referred to.”

RETURN

(39c)

To an ORDER of the HOUSE OF COMMONS, dated the 5th May, 1891;—For a Return showing the contingent expenses of the several salaried Postmasters of this Dominion for the fiscal years 1888, 1889 and 1890.

By order.

J. A. CHAPLEAU,
Secretary of State.

RETURN showing the Contingent Expenses of the several salaried Postmasters of this Dominion for the fiscal years 1888, 1889 and 1890.

	1888.	1889.	1890.
	\$ cts.	\$ cts.	\$ cts.
Belleville	293 05	160 90	196 10
Charlottetown	256 81	167 92	213 16
Fredericton	48 49	17 90	38 52
Halifax	283 65	269 22	282 97
Hamilton	100 37	32 18	48 35
Kingston	83 27	46 42	29 50
London	112 24	72 49	60 82
Montreal	1,363 40	967 37	754 73
Ottawa	686 11	630 15	615 15
Quebec	440 22	418 29	422 64
St. John	386 88	391 08	368 09
Toronto	568 02	409 67	449 25
Victoria	78 80	43 27	30 15
Windsor	186 20	96 39	98 45
Winnipeg	174 66	195 00	143 13

CONTINGENT Expenses of City Postmasters for years ended 30th June, 1888, 1889 and 1890.

Name of Office.	Articles.	Amount.	Total.
	1888.	\$ cts.	\$ cts.
Belleville	Whisks, soap, repairing locks, &c.	61 84	293 05
	Postmaster's incidentals and charwork	231 21	
Charlottetown	Hardware, soap, towels, &c.	65 16	256 81
	Postmaster's incidentals and charwork	191 65	
Fredericton	Brooms, matches, &c.	7 50	48 49
	Postmaster's incidentals and charwork	40 99	
Halifax	Sorting baskets, soap, &c.	47 02	283 65
	Postmaster's incidentals and charwork	236 63	

CONTINGENT Expenses of City Postmasters for years ended 30th June, 1888, 1889,
and 1890—Continued.

Name of Office.	Articles.	Amount.	Total.
	1888.	\$ cts.	\$ cts.
Hamilton.....	Repairs, &c.....	51 20	
	Postmaster's incidentals and charwork.....	49 17	
Kingston.....	Brooms, baskets, matches, &c.....	32 16	100 37
	Postmaster's incidentals and charwork.....	51 11	
London.....	Brooms, whisks, matches, &c.....	15 87	83 27
	Postmaster's incidentals and charwork.....	96 37	
Montreal.....	Stamping pads and repairs, &c.....	402 68	112 24
	Postmaster's incidentals and charwork.....	960 72	
Ottawa.....	Brooms, dusters, towels, &c.....	73 19	1,363 40
	Postmaster's incidentals and charwork.....	612 92	
Quebec.....	Brooms, dusters, soap, &c.....	26 55	686 11
	Postmaster's incidentals and charwork.....	413 67	
St. John.....	Sorting baskets, brooms, &c.....	42 74	440 22
	Postmaster's incidentals and charwork.....	344 14	
Toronto.....	Letter trays, repairing scales, &c.....	88 37	386 88
	Postmaster's incidentals and charwork.....	479 65	
Victoria.....	Hardware, brooms, soap, &c.....	64 25	568 02
	Postmaster's incidentals and charwork.....	14 55	
Windsor.....	Hardware, brooms, &c.....	135 14	78 80
	Postmaster's incidentals and charwork.....	51 06	
Winnipeg.....	Hardware, &c.....	53 60	186 20
	Postmaster's incidentals and charwork.....	121 06	
	1889.		
Belleville.....	Soap, repairing locks, &c.....	19 15	174 66
	Postmaster's incidentals and charwork.....	141 75	
Charlottetown.....	Brooms, soap, matches, &c.....	14 92	160 90
	Postmaster's incidentals and charwork.....	153 00	
Fredericton.....	Postmaster's incidentals and charwork.....		167 92
Halifax.....	Sorting baskets, soap, &c.....	28 30	17 80
	Postmaster's incidentals and charwork.....	240 92	
Hamilton.....	Oil.....	0 85	269 22
	Postmaster's incidentals and charwork.....	31 33	
Kingston.....	Sorting baskets, brooms, soap, &c.....	28 49	32 18
	Postmaster's incidentals and charwork.....	17 93	
London.....	Brooms, brush, &c.....	11 40	46 42
	Postmaster's incidentals and charwork.....	61 09	
Montreal.....	Sorting baskets, brooms, soap, &c.....	51 06	72 49
	Postmaster's incidentals and charwork.....	916 31	
Ottawa.....	Brooms, soap, feather dusters, &c.....	36 85	967 37
	Postmaster's incidentals and charwork.....	593 30	
Quebec.....	Brooms, soap, matches, &c.....	36 30	630 15
	Postmaster's incidentals and charwork.....	381 99	
St. John.....	Sorting baskets, brooms, towels, &c.....	58 92	418 29
	Postmaster's incidentals and charwork.....	332 16	
			391 08

CONTINGENT Expenses of City Postmasters for years ended 30th June, 1888, 1889
and 1890—*Concluded.*

Name of Office.	Articles.	Amount.	Total.
	1890.	\$ cts.	\$ cts.
Toronto	Brooms, towels, oil, &c. Postmaster's incidentals and charwork	18 31 391 36	409 67
Victoria	Feather dusters, brooms, &c. Postmaster's incidentals and charwork	34 37 8 90	43 27
Windsor	Brooms, soap and matches, &c. Postmaster's incidentals and charwork	13 95 82 44	96 39
Winnipeg	Hardware, brooms, towels, &c. Postmaster's incidentals and charwork	105 53 89 47	195 00
Belleville	Hardware, soap, matches, &c. Postmaster's incidentals and charwork	8 70 187 40	196 10
Charlottetown	Towels, soap, matches, &c. Postmaster's incidentals and charwork	34 66 178 50	213 16
Fredericton	Brooms	1 50	
	Postmaster's incidentals and charwork	37 02	38 52
Halifax	Sorting baskets, soap, &c. Postmaster's incidentals and charwork	23 75 259 22	282 97
Hamilton	Brooms, towels, lamp chimneys, &c. Postmaster's incidentals and charwork	15 90 32 45	48 35
Kingston	Brooms, soap, towelling, &c. Postmaster's incidentals and charwork	19 30 10 20	29 50
London	Sorting baskets, towelling, &c. Postmaster's incidentals and charwork	8 73 52 09	60 82
Montreal	Brooms, soap, repairing locks, &c. Postmaster's incidentals and charwork	37 61 717 12	754 73
Ottawa	Brooms, soap, towels, &c. Postmaster's incidentals and charwork	30 15 585 00	615 15
Quebec	Sorting baskets, brooms, towels, &c. Postmaster's incidentals and charwork	42 64 380 00	422 64
St. John	Sorting baskets, repairs, &c. Postmaster's incidentals and charwork	33 44 334 65	368 09
Toronto	Brooms, soap, baskets, gong, &c. Postmaster's incidentals and charwork	63 89 385 36	449 25
Victoria	Brooms, soap, dusters, &c. Postmaster's incidentals and charwork	24 15 6 00	30 15
Windsor	Brooms, soap, scrubbing brush, &c. Postmaster's incidentals and charwork	8 80 89 65	98 45
Winnipeg	Hardware, feather-dusters, &c. Postmaster's incidentals and charwork	35 38 107 75	143 13

MEMO.—The contingent expenses of the several salaried Postmasters of this Dominion are to be found in the Auditor General's Report, as follows:—

For 1888—Beginning on page F—37.
1889 do F—99.
1890 do D—92.

RETURN

(41)

To an ORDER of the HOUSE OF COMMONS, dated the 14th May, 1891;
For a Return giving the Report of Mr. J. R. Arnoldi, Engineer of the
Mechanical Department of Public Works to the Special Committee on
Ballot Boxes, last Session.

By order.

J. A. CHAPLEAU,
Secretary of State.

DEPARTMENT OF PUBLIC WORKS,
MECHANICAL ENGINEER'S OFFICE, OTTAWA, 16th April, 1891.

Hon J. A. CHAPLEAU, Chairman of Committee on Ballot Boxes.

SIR,—In compliance with the desire of committee, I beg to submit the following report on the twelve ballot boxes exhibited to the committee yesterday, on which occasion I was present, at their request, to examine the mechanical points:—

No. 1. *Mr. J. Moffatt's*—The operation of this box is by the insertion of a ballot slip, wider at one end than the other. This ballot is to be marked by the voter before being inserted in a slide, under glass, and this slide is to be operated by the returning officer, to bring the ballot to the receiving compartment of the box.

The successful operation of this box requires that it be made with great nicety. The least crumpling or turned up edge of the ballot slip prevents its passage through the mechanism.

No. 2. *Mr. E. Fortin's*—This box is operated by flat-headed pin ballots, one of which the returning officer inserts up through a hole at the back of the box to a receiving slot on the top. This slot runs down towards the other end of the box, and from this long slot or channel there are short slots running at right angles, all joined to the long channel, but separate from each other. Each of these short slots is intended for a candidate. Beneath each of these short slots, and out of view, there is a hole slightly larger than the head of the pin ballot, and beneath each of these holes there is a small receiving box for the individual candidates.

The voter takes the tail of the pin ballot in his fingers from the position in which the returning officer placed it, and slides it down the long slot into the short slot of whichever candidate he wishes to vote for; there it drops out of his fingers into the receiving box inside. These receiving boxes are on a sliding tray inside the box, which is secured by lock and key under the control of the returning officer.

No. 3. *Dr. Jones'*—This box is operated by a single ball, of metal or other material, which the voter drops into an aperture, indicating which candidate he wishes to vote for; from this aperture it takes a channel at a descending angle, at the end of which it drops into a lever to which a pawl is attached. This pawl has sufficient lift to raise one tooth of a ratchet wheel, forming part of a train of gear.

The outside casing of this gear mechanism has dials similar to a gas meter, which is intended to register the number of votes recorded.

No. 4. *M. Thibault's*—This box is operated by the voter dropping a marble into the aperture designating the candidate he selects.

The mechanism of this box has a number of joints, pins and separate pieces, complicated and liable to get out of order.

No. 5. *M. Thibault's*—This is an ordinary ballot box, such as at present in use, with the addition of a frame erected over the ballot-receiving aperture. On this frame a card is placed with the different candidates' names thereon; the voter makes his mark opposite the chosen name, and the returning officer, by an appliance attached to the box, pulls it into the receiving apartment.

There being no special mechanism in this case, I think the committee will be able to form their own opinion as to the advisability of such an addition to the present ballot box, and the possibility of dampness on a rainy day, at a polling booth, affecting the flatness of the ballot cards, any change in the form of which, in my opinion, might interfere with their passing into the slot or receiving aperture.

No. 6. *John Waddell's*—This box is a numerical recorder, the voter pulling out a handle under the designated name of whom he wishes to vote for. The pulling out of this handle moves a drum, which displays one consecutive number for each time the handle is pulled out, and the drum will not move again or change its number, however often the handle may be pulled in or out, until the returning officer has moved a lever at the back or end of the box. In fact, the returning officer has, by this lever, to set the mechanism of the box for each vote recorded, and a voter can only operate one handle at a time, as the fact of his pulling out one handle locks all the rest of the handles of the box.

The mechanism of this box appears to have been well thought out, and the different parts are as few and simple as can be used in its construction.

I do not see anything in this box to go out of order under ordinary circumstances.

No. 7. *C. Desjardin's*—This box has an internal reservoir of marbles, with grooves for them to run in for as many candidates as are to be voted for; beneath each candidate's designation, on the outside of the box, there is a push button, by which it is intended the voter shall drop one marble into the receiving compartment below.

As I showed the Committee, with an ordinary steel pen it is possible for a voter to record as many votes as he likes, by dropping more or less marbles.

No. 8. *L. Bance's*—This box is operated by small, flat chips, that is say, pieces of metal or other material in square parallelogram, or any other form of any thickness to suit the size of the slots made in the plate receiving them. The box is made with a double lid, making two compartments horizontally—the under compartment being sub-divided into as many smaller compartments as there are candidates to be voted for. On the intermediate cover closing this compartment spaces are marked off corresponding to the sub-compartments beneath, and in each of these respective spaces the candidates are designated. On the centre of this same cover there is a plate with as many slots in it as there are candidates, and into the selected slot the voter places a check handed him by the returning officer. By an operation to be performed by the returning officer this chip is dropped into the compartment the voter intended it for.

No. 9. *Major Chapleau's*—This box is operated by dropping a marble into an aperture designated by the name of the candidate, where it rests in a slotted diaphragm, of very slight construction, the different slots being at an angle, not parallel to each other. This diaphragm is operated by pulling out a handle which rolls the marble to its proper receiving box.

The rolling of this marble shifts the position of this diaphragm, and the mechanism is such that by a delicate interlocking arrangement the box will not operate again without being properly set.

As the committee remarked yesterday, the holding of this box at a slight incline put it out of adjustment, and I should expect concussion from the hand would produce a similar result.

No. 10. L. M. Senécal's—This box is a card ballot, containing very considerable mechanism of a nature, which, in my opinion, could not be relied upon.

The cards with the candidates designated thereon are put in, I may say, in a pack, threaded along a spindle, on the outside or front end of which there is a cam; in the centre of the card there is a slot adjoining one side of the hole through which the spindle passes (making it resemble a key-hole), and in order that the cam will only operate one ballot card at a time these slots are placed alternately right and left. When a voter records his vote he presses down a handle, of which there is one to each candidate, and this pressure presses a punch against the card, making a perforation through it, similar to the act of marking a ballot.

As I showed the committee, it was possible that the returning officer, in threading the ballots on the spindle, might accidentally thread two on with the slots to the same side, thus giving two ballots for one vote.

No. 11. J. C. Auger's—This is an ordinary ballot box, such as at present in use, with the addition of having the padlock with its key enclosed in a small bag made of paper, canvas or other material, with draw strings around the outside of the padlock, where it is tied up, and the ends of the string or tape sealed on the bag by the returning officers.

This is merely a device for securing the opening to the ballot box from being tampered with.

No. 12. G. S. Conway's.—This box contains a horizontal cylinder, on which a roll of paper is secured by paste or other adhesive material. On the top of the box there is a designating push knob for each candidate. The voter pushes down a knob for his selected candidate, and a pricker on the end of the push knob punches a hole in the paper on the drum, the drum of course shifting at each vote.

The counting of the votes is intended to be done by counting the holes punched in the drum, and I think the committee will conclude that it would be a matter of no difficulty for the returning officer, or whoever handles the drum paper, to punch a few more holes for his favourite candidate.

I have the honour to be, sir, your obedient servant,

JOHN R. ARNOLDI, *Chief Mechanical Engineer.*

RETURN

(43c)

(IN PART)

To an ADDRESS of the SENATE, dated 21st January, 1890, for copies of all reports and other communications in reference to the deposit of sawdust, slabs, and other offensive material in the Ottawa, and other rivers of the Dominion.

By order.

J. A. CHAPLEAU,
Secretary of State.

OTTAWA, 16th December, 1890.

REPORT OF A COMMITTEE of the Honourable the Privy Council, approved by His Excellency the Governor General in Council, on the 12th October, 1889.

The committee of the council have had under consideration the subject of the injurious effect resulting from the practice of allowing sawdust and mill refuse to drift into the waters of the river St. John and its tributaries in the province of New Brunswick as well as into the waters of the neighbouring state of Maine.

The minister of marine and fisheries, to whom the matter was referred, submits a report, herewith, in which he states that "the anomaly of the position and the importance of the question call for concerted action on the part of both governments with a view to putting a check upon this growing evil, and he suggests the desirability of inviting the authorities of the state of Maine to adopt legislation similar to that now found in the Canadian statutes so as to ensure protection to the fisheries and navigation of the St. John river and its tributaries."

The committee advise that a copy of this report be transmitted by your excellency to her majesty's principal secretary of state for the colonies, with the request that it be brought to the notice of the government of the state of Maine, through the usual channel, in order that the question may be considered by the legislature of that state, and united action adopted by both the Canadian and state governments in reference to this subject.

All of which is respectfully submitted for your excellency's approval.

JOHN J. MCGEE, *Clerk Privy Council.*

The Honourable

The Minister of Marine and Fisheries.

DEPARTMENT OF FISHERIES, OTTAWA, 4th September, 1889.

The undersigned has the honour to state for the information of his excellency the governor general in council that the injurious effects resulting from the practice of allowing sawdust and mill refuse to drift into the waters of the river St. John and its tributaries in the province of New Brunswick, as well as into the waters of the neighbouring state of Maine, has engaged his attention.

He observes that in the report of the commissioner of the state of Maine for 1886, it is stated: "The diminished volume of water in our rivers caused by the demands of our industries and ravages by fire; the obstruction of our water courses by milling enterprises; the throwing into our streams of sawdust and waste of our sawmills; the poisonous washings from our various factories; all have tended to destroy our fishes.

* * * * *

"A great portion of the spawning grounds of our salmon has been destroyed by being covered with sawdust and waste from our thousands of manufactories, compelling our migratory fishes to seek other spawning beds, or leave their ova to be poisoned or its young to be starved."

In the opinion of the undersigned, stringent measures on the part of Canada as well as on the part of the state authorities in Maine are necessary, if this magnificent stream is to be saved from the injurious result of the depositing of mill rubbish and sawdust into the stream.

The St. John river and its affluents, it is calculated, afford thirteen hundred miles of navigable waters, and drain an area of seventeen millions of acres of land within New Brunswick and the state of Maine.

Its value for the purpose of navigation is shown by the fact that large vessels go to Fredericton, or ninety miles from its mouth, above which point a smaller class of steamers ply to Woodstock, sixty-five miles further up, and not unfrequently to the Tobique and to Grand Falls, two hundred and twenty-five miles from the sea. Above Grand Falls, the St. John has been navigated by a steamer for a distance of forty miles, to the mouth of the Madawaska, which stream is navigable for small steamers to lake Temiscouata, an expansion of water twenty-seven miles long and of great depth throughout. Boats and canoes ascend the river almost to its sources.

As a tract of six million acres of land in the state of Maine is drained by this river and its tributaries, the neighbouring republic has an equal interest with Canada in protecting its navigation. The lumbering interest is of great importance, as demonstrated by the operations of the different mill owners and the gigantic proportions their business has assumed.

The salmon fisheries of the river St. John and its tributaries formerly were remarkable and the future fish supply of the section of the country through which this river runs depends upon the extensive spawning beds to be found along its course, or among the different tributaries thereof. There is cause of apprehension on this head when it is considered that the yield of the salmon fishery, which amounted to 71,960 pounds in 1887, had fallen to 43,615 pounds in 1888. A continuance of this decrease would in a short time result in the extinction of this valuable fishery and witness the utter ruin of one of the finest salmon rivers on the continent.

This decline is attributed in a large degree to the injurious effect of the deposit of mill rubbish and sawdust from sawmills and shingle mills, into the main river and its branches, in Canada and the state of Maine. These mills pollute the waters annually with large quantities of sawdust and refuse of every kind, which lodge on the shoals and spawning beds.

The increase in the number of mills and consequent decrease of unpolluted spawning beds would seem to afford just ground for the belief that the ultimate destruction of the valuable fish supply of this magnificent water course, is not far off. The inspector of fisheries for New Brunswick in his annual report to the minister of marine and fisheries for the year 1886, speaking of but a small section of the waters affected, says: "In the Carleton, on the upper St. John, there are some thirty-three saw and shingle mills, and the whole of their refuse is allowed to pass into the river. Already this has had a visible effect upon the salmon fishing in its whole extent, for the farther the fish ascend after passing Fredericton, the worse do they find the water; and the sawdust is fast covering up the beds upon which the salmon were accustomed to spawn. There can be no doubt, if this continues for a few years longer, the salmon fisheries of the whole river, harbour and bay will be destroyed. When it is considered that mill owners have only a life interest in their operations, it seems unreasonable to allow them to destroy, for their

own immediate profit, the heritage of future generations,—one of the richest gifts of a beneficent providence. In view of these facts, I would respectfully urge that all fishery officers be sustained in their efforts to compel mill-owners to comply with the law respecting sawdust and mill refuse, and that steps be taken to secure the co-operation of the fishery commissioner for Maine.” And again, in his report for 1878, while dealing with the subject of sawdust generally, he adds: “In every annual report made to your predecessor, I have called special attention to the injury that sawdust and mill refuse have caused and are still causing to the fisheries. I regret to say that nothing effectual has been done, and the evil is increasing, rather than diminishing, in all the counties where lumbering is pursued and saw-mills are in operation. Mills are being multiplied all over the province, but no provision is being made for disposing of their sawdust and rubbish. The great bulk of these are either thrown into the streams or deposited on the banks, in such positions that every freshet washes it into them. The effect of this on the fisheries I have constantly pointed out, and urged on the department the necessity of abating them, but the influence of mill-owners and politicians has been sufficient to set the law aside, and the monstrous evil continues unchecked. On the upper St. John, all, or nearly all the mills dispose of their rubbish by placing it in the river. In the county of Carleton there are now thirty-six mills of various kinds, and the whole of their rubbish is allowed to pass into the river. This has entirely ruined the fisheries in that county and has had a most injurious effect upon the salmon and shad fisheries along the whole extent of the river. If this is allowed to continue but a few years longer, there is no doubt that it will destroy the fisheries, for it is fast covering the spawning grounds and driving the fish from their accustomed haunts. In view of these facts, I would most respectfully urge that all fishery officers be instructed to enforce that law, and that they be sustained in their efforts to compel mill-owners to comply with its provisions.”

The baneful effects of sawdust,—one of the most destructive agents known for polluting streams, and otherwise causing injury to fish life, has called forth the efforts of different countries to stay its progress in waters frequented by fish.

Whenever mill dams have been built across streams, and where sawdust, mill rubbish, and other deleterious substances have been cast into the waters from saw mills and other manufactories, fish life and vegetation of all kinds have been greatly lessened; and in many instances wholly destroyed. This is particularly noticeable among the higher order of fishes, especially the salmon family, which are of a migratory nature, ascending rivers and other streams for breeding purposes. These waters are invariably of the purest, coldest and most limpid description, and therefore best adapted for the propagation of their species. The salmon at the time of the first settlement of the maritime provinces, were found frequenting almost every river and stream emptying into the sea,—so plentiful were they in many of the waters before the lumbering industry took such a strong hold in the erection of dams, and saw mills with the consequent injurious effect from them upon fish life, that salmon were in great abundance; they were freely used by the inhabitants generally for domestic purposes, and also produced a large amount of traffic and commercial wealth for the country. But as the saw mills and mill dams increased in number with greater capacity for their work, they formed impassable barriers to the ascent of salmon and other fishes to their natural spawning grounds above, and then the hurtful and pernicious effects arising from the sawdust and mill rubbish being constantly cast into the streams poisoned the spawning beds below, and stayed the growth of all vegetation in the streams, thus driving away insect life, which is the principal sustenance for fish in their younger stage of existence.

Then as this improvident work of the mills increased in magnitude, so did the yield of all kinds of fish decrease in these streams, until it has been so found in some cases that after stripping the neighbourhood of all lumbering material and destroying all fish life, these mills have gone into ruin and decay.

In a large degree this destructive process has been persistently carried on in the waters of the St. John river and its many tributaries in Maine and New Brunswick. This river, once so famous for its large supplies of salmon and other valuable fishes, has now, from the causes above mentioned, fallen to a low standard. This is the more apparent when

the great extent and natural advantages it possesses for the production of salmon and other valuable fishes (when properly husbanded) are taken into consideration.

By a strict and impartial application of the law for regulating mill dams, for the easy ascent of salmon, shad and alewives to their proper spawning grounds ; by the enforcement of the statutes forbidding sawdust, mill rubbish and other deleterious substances being drifted or thrown into the river ; by the due observance of the proper close time ; by a stoppage of the use of the deadly torch and spear ; by the judicious regulations regarding the use and setting of nets of all kinds, and by increasing the supplementary aid to be obtained by artificial culture, it is believed that only a few years would pass before an increase would be experienced in the catch of salmon, shad, alewives and other fishes throughout the whole extent of the St. John river and its tributaries. There are yet to be found sufficient numbers of these fish, natives of the river, from which by proper protection and good husbandry an immense supply of fish food and commercial wealth would be readily obtained for the general benefit of the inhabitants of that section of the country.

Appended to this report are the opinions of different authorities upon the injurious effects of sawdust on fish life.

The question of navigation is also of paramount importance, and it may reasonably be assumed that the gradual accumulation of sawdust will, sooner or later, be very detrimental. Already, in 1884, the Canadian government found it necessary to dredge the river at St. Mary's ferry near Fredericton, from which place no less than 10,820 cubic yards of sand and sawdust had to be removed ; and it is apprehended, that in other localities, such as the Oromocto shoals, the sawdust is forming faster than it can be carried away by the current, thus necessitating further dredging to keep the navigation open.

The effect upon the harbour of St. John was, as early as 1852, described in a report by H. M. Perley, Esq., her majesty's emigration officer at St. John, as follows :—“ There can be no doubt that the large quantities of sawdust and rubbish from the saw-mills which have been cast into the harbour of late years have been highly detrimental to the fisheries, and most injurious to the harbour itself. The writer's official duties as emigration officer during the last eight years have rendered it necessary for him to be much afloat within the harbour every season, and to visit Partridge island at its entrance very frequently. The damage done to the harbour within that period and the injury to its navigation, especially for large vessels, can scarcely be appreciated by those who have not watched its progress or examined its results

“ The great floods of the St. John, occasioned by the melting of the snow and ice at the close of the winter or by heavy rains at other periods, bring down large quantities of fine silt, or alluvial matter, rendering the water at those periods extremely turbid. This alluvial matter encounters the sawdust in the harbour, and, jointly, they form a deposit which soon attains solidity wherever it happens to rest. The western channel into the harbour has shoaled very considerably, as well from the deposit of silt and sawdust, as the aggregation of slabs, rinds and edgings, also sunk there ; while the bar at the eastern end of Partridge island is found to extend and increase year by year, threatening to damage the eastern channel very considerably.

“ In the opinion of several competent persons, an expenditure of \$10,000 would not probably bring those channels into the same condition and fitness for navigation as existed prior to 1840. Notwithstanding the able and careful report of the commissioners appointed to enquire into the sawdust nuisance in the harbour of St. John (printed in the appendix to the assembly journals for 1849), the evil will probably continue to increase, until the legislature is called upon to make a large appropriation for improving the navigation of this fine harbour, which must be done at no very distant date, if the present state of things is allowed to continue.”

The revised statutes of Canada, chap. 91, section 7, “ An act for the protection of navigable waters,” and chap. 95, section 1, “ The fisheries act ” (triplicate copies annexed) prohibit the throwing of sawdust and mill refuse into rivers.

The provisions of the above cited acts are strictly enforced, except under special circumstances as contemplated by their provisions. Instances occur where the fishing interest is of so little importance and the danger to navigation so small owing to local reasons, where it is advisable to exempt a stream either wholly or in part from the operations of the provisions of the statute. In such cases, the minister of marine and fisheries may exempt streams or parts of streams.

The statutes of Great Britain prohibit the putting into the water of any "rubbish" injurious to fish.

Some of the states of America have similar laws with regard to sawdust; but, in the absence of legislative enactments for the suppression of this nuisance in the state of Maine, through which flow the St. John river and its tributaries, and the presence of numerous mills on the banks, the evil has assumed dangerous proportions. The enforcement of the law on the Canadian side of the boundary had also to be somewhat relaxed (though the department refused petitions for complete exemption), owing to the fact that it was almost useless to prohibit a nuisance in one section of the river which prevailed with impunity in another.

The anomaly of the position and the importance of the question call for concerted action, on the part of both governments, with a view to putting a check upon this growing evil; and the undersigned would suggest the desirability of inviting the authorities of the state of Maine to adopt legislation similar to that now found in the Canadian statutes, so as to ensure protection to the fisheries and navigation of the St. John river and its tributaries.

The undersigned, therefore, recommends that a copy of this report be transmitted to the principal secretary of state for the colonies with a request that it be brought to the notice of the government of the state of Maine through the usual channel in order that the question may be considered by the legislature of the state of Maine, and united action adopted by both the Canadian and state governments in reference to this subject.

Respectfully submitted,

CHARLES H. TUPPER,
Minister of Marine and Fisheries.

APPENDIX.

OPINIONS OF DIFFERENT AUTHORITIES ON THE INJURIOUS EFFECTS OF SAWDUST ON FISH LIFE.

(*Mr. S. Wilmot, Superintendent of Fish Culture in Canada.*)

Sawdust in its locomotion when drifted from mills, becomes water soaked, and settles upon the gravel beds and other places where fish resort for depositing their eggs. These, coming in contact with this extraneous matter, become infected; impregnation is prevented, vitality is destroyed and they die. Should the ova escape contact with the sawdust or the foul matter from it during the early stages of incubation, the same direful effects will be brought about later on, in the embryo state, and when hatched into fry. In this last mentioned stage death becomes inevitable, from the total absence of vegetable growth, the nuclei for insectivora crustacea and the other insect tribes, upon which young fish largely subsist in early life.

Sawdust, whenever it takes lodgment to any extent, sooner or later destroys all animal and vegetable life. When in certain cases it becomes intermixed with sedimentary matter, or alluvial deposits, partial decomposition sets in and gaseous explosions of the most fetid and noxious character are caused, covering large areas, and with such violence as to cause upheavals of putrid matter, through ice and water surfaces, many hundreds of yards in extent; and in some rivers these explosions are found to be extremely dangerous to life, property and navigation.

The ruinous effects of this sawdust scourge when deposited in the waters of the country are still greater than when cast upon the land. Its floatability at first gives it more widespread areas in which to work out its desolating influences, even passing down in some instances till it reaches the small inlets and bays on the sea coast; there it likewise kills the sources which give life and food for the smaller races of marine insects and animals, whose absence from the secluded nurseries of fish life turns away from the adjacent coast the more important sea-going fishes that formerly resorted to these places for prey. Settling here and there in its course down the streams, it forms a compact mass of pollution all along the bottoms and margins of the rivers, filling up the crevices on the gravel beds, and among stones, where aquatic life is invariably produced and fed. Being a solid, imperishable, foreign matter, it adheres to the beds of streams and other waters, and forms a long continuous mantle of death and constitutes an endless graveyard to the innumerable colonies of insect life, which inhabited these former and well adapted natural abodes for their existence.

(Extract from a Report prepared for the Vienna Exposition on the decrease of food fishes.)

The basis on which a rational system of pisciculture is founded is very simple and can be limited to the following rules:—Preserve the natural condition of those places where the fish spawn, conditions which favour the spawning process, and tend to preserve the spawn and protect the first development of the eggs. Thus everything which diminishes the supply of fresh water, everything which changes the quality of the water, or the character of the bottom; everything which hinders the growth of aquatic plants; in fact everything which at its very source can destroy the health of the fish of a whole basin. * * * Leave a free passage for the fish to pass to the places which are favourable for spawning. * * * Protect the young generation so that it can arrive at the age of maturity and contribute its share towards the increase of its species.

Prof. J. W. Milner, of the United States Fish Commission in reporting on pollution of lake waters by sawdust.

The refuse from the saw mills; slabs, sidings, and sawdust is thrown into the streams in immense quantities, and float out and sink into the lake. It is having a very injurious effect upon the fisheries. The water logged slabs tilted on the bottom and moved by currents tear and carry away the nets. The sawdust covers the feeding and breeding grounds of the fish, and is so obnoxious to them that in the vicinity of numerous mills, the fisheries become greatly reduced in numbers and success.

Observations have discovered the salmon ova diseased and decaying, with particles of sawdust adhering. Its contaminating effects extend far and wide from the vicinity of the mills, as the contents of a dredge from one hundred fathoms depth in Grand Traverse Bay, contained numerous blackened and decaying particles of sawdust.

The gradual deposit of water logged sawdust, an inert substance in the water with occasional slabs, forms a nucleus for sand bars in the mouths of rivers and in some of them will contribute to an injury to navigation as it has to a considerable extent in the rivers of Wisconsin and Michigan.

In the Sault Ste. Marie river and in the Detroit river, in the fall of the year, white fish congregate in great numbers for the purpose of spawning. In a number of rivers the white fish was formerly taken in abundance in the spawning seasons; sawmills are numerous on all these streams at the present day, and the great quantity of sawdust in the streams is offensive to the fish and has caused them to abandon them.

As everywhere civilized man disturbs the balance of nature and becomes the enemy of all forms of life that do not conform to his artificial methods for their protection, not only by the hundreds of artifices for the capture of the fish, but in the foul drainage from the cities and manufactories, and in the quantities of sawdust from the mills, they

are driven from their favourite haunts and spawning grounds, and their food destroyed by waters tainted with fatal chemical combinations.

In the 7th Report of the Fish Commissioner for the State of Michigan, 1886, when alluding to fouling of the waters with sawdust, and so forth, it is stated :

There are some places nevertheless where the practice of running sawdust and edgings into the water has become not only an intolerable nuisance, from a sanitary point of view, but a great annoyance to navigators of steam craft, and utterly destructive of fishing grounds, which before were the natural spawning resorts of the whitefish. Particularly is this state of facts true in several places on the north shore of Lakes Michigan and Muskegon, and other places on the east shore of the same lakes. The surface of the water for miles around each of the places named is covered with this stuff, and both vesselmen and fishermen report that the natural formation of the bottom has been completely covered by the rotting sawdust deposited there. This unnecessary destruction of the feeding and spawning grounds of the fishes should have been prevented long ago, but even at this late day there is no good reason why early legislative action should not intervene to prevent the few mill men who still persist in this practice from so using the waters of the great lakes and the streams emptying therein, as to subvert the rights of every other class.

New Hampshire Fishery Commissioner's Report, 1885.

Another method of securing an increase of fish consists in taking the necessary measures to prevent the introduction of foul waste, such as may kill or injure the adult fish or young, or interfere with the development of the eggs, such as paper and dyeing establishments, &c., and refuse of saw-mills ; the sawdust getting into the gills of the parent fish, or covering up the spawning beds. Many a fine stream has been ruined by saw-mills, which have allowed the sawdust to pollute the water. Dams near the mouth of a stream often obstruct the water so that fish cannot reach a suitable place to deposit fertilized eggs. At the end of two or three years there will be a continued lessening of the run of fish ; at the end of this time when all the fish born in that stream have been caught or destroyed, the run ceases. Although the obstruction be removed, the stream will remain barren of fish until re-stocked by human agencies.

Extract from a Report by Mr. A. D. Berrington, Chief Inspector of Fisheries to the Imperial Board of Trade.

The ascent of salmon in the Severn is considerably impeded by a number of small weirs, many of which have been built or raised since 1861, and are without the required fish-pass. I have drawn the attention of the fishery board to these cases, and also to the introduction of sawdust into the river, which is deadly to fish from its choking their gills, and the refuse from slate grinding which fills up the spawning beds.

Extract from the Report of the Fish and Game Commissioner for the State of New Hampshire, U.S., for 1889.

The commissioners call the attention of the governor and council to the great injury done to many of trout streams by sawdust and mill refuse being dumped into the streams. A great deal of this is done by portable steam mills that move from place to place, and generally locate so as to run the refuse into the stream to avoid the trouble of taking care of it. The extent of this evil will be understood when he considers that for every thousand feet of lumber sawn forty bushels of sawdust go into the stream.

The greatest injury to our streams by mill refuse is the destruction of the spawning beds and young fry. The clear, gravelly eddies just below rapids are the places that are selected by the fish for spawning purposes, and unfortunately these are the places in which the sawdust accumulates, and the bottom is no longer clear sand and gravel, but a foul mass of decomposing vegetable matter, capable, if present in large quantities, of generating heat enough to emit gas.

Extract from the report of the Fish Commission for the State of Michigan, for 1887-88.

At Manistee, Suddington, Muskegon, Grand Haven, Pentuater and Montague, while whitefish are scarce in consequence of the depositing of refuse from saw mills, yet the fishermen believe in artificial propagation, and that planting would be a success if the water was free from that refuse.

47th Legislature, Senate No. 7, Maine. Report of the Commissioners of Fisheries on investigation as to restoration of sea fish in rivers, and so forth. Page 73.

* * * There is, however, another way in which this substance is injurious to all feeding fish. Great drifts of it settle down upon bottoms that were before well peopled with insects and other small creatures, and destroy all life. This deprives the fish of a portion of their feeding grounds, and compels them to seek new pastures.

* * * * *

Same Report, Appendix A. Circular. Page 93. Signed by N. W. Foster and Chas. G. Atkins, Commissioners, as well as the Commissioners for New Hampshire, Vermont, Massachusetts and Connecticut, dated Boston, 26th Feb., 1867.

The New England commissioners of river fisheries wish to bespeak the attention and the assistance of all persons who are interested in the re-stocking of our fresh waters with valuable fish such as the salmon, shad, herring, alewife, trout, black bass, striped bass and lamprey eel.

These fish, half a century ago, furnished abundant and wholesome food to the people, but, by the erection of impassable dams, the needless pollution of ponds and rivers, and by reckless fishing in all ways and at all times, our streams and lakes have been pretty much depopulated.

Luckily, the immense natural increase of fishes opens a way to their restoration. We have only to remove the causes of their destruction, and they will multiply enormously without any care at all.

The causes of destruction are chiefly as follows:— * * * Pollution of water by lime, dyes, soap, sawdust and other mill refuse. Much of all these should not be thrown at all into the water. As to the dirty water from wool and cloth washings, it may be confined to one side of the river by a plank screen placed opposite the race-way. * * *

Report of the Commissioners of Fisheries of the State of California for 1870 & 1871. Trout, page 11.

* * * It having been noticed that on many streams on which there were saw mills, the trout after a few years disappeared, it was supposed that the floating sawdust in some manner killed the fish, but as in other streams on which there had been saw mills for years there were still trout to be found, the Maine Commissioners devoted much investigation to solve the mystery. They found that trout readily swam among the floating sawdust and never seemed to avoid it. At last they ascertained that where the

mills were below the gravel spawning beds of the trout the fish were still plenty, but where the mills were above, the fish had ceased to be. Wherever the sawdust had sunk and covered the spawning beds, the trout, after a few years, had disappeared, for the trout have the same instinct as the salmon—it returns to spawn in the particular stream in which it was hatched.

Canada, which is in advance of most of our states in her laws for the preservation of her fisheries, forbids, under penalties, all saw mills from running sawdust into the streams. In a short time it will be requisite to pass similar laws in this State, for, in addition to the destruction of trout, the sawdust will cover the spawning beds of the salmon as effectually as the mud from mining has their gravel beds in the American Yuba and Feather Rivers.

And again at page 18 under heading Purissima Stream.

* * * The sawdust and blocks of the redwood are thrown into the stream, which turns the water to a dark red and, in some places, to an inky black; in other places to a purple. This is poisonous and kills the fish in half an hour after it is drunk. According to the testimony of Messrs. Boyden and Hatch themselves, cattle along this stream are walking skeletons. I saw several carcasses of dead animals lying along the bank, notwithstanding there is plenty of good grass. This shows conclusively the truth of all the reports made to me by many of the settlers along the stream. In places where the water runs fast it is quite palatable; but where it is still it becomes wholly unfit for use, and not only kills the fish, but is dangerous to the cattle. At some seasons of the year, the settlers are obliged to sink holes or wells back from the stream, and even then the water is impregnated with an odour only to be derived from dead fish.

Tunis Creek, page 18.

Tunis Creek is a clear-water trout stream, of about the same volume as Lobetis, it empties its waters upon the beach. Ten miles up this stream is Foment's saw-mill, not running now, owing to a law-suit pending and an injunction from the court, which last, it is to be hoped, may continue for all time, as the sawdust so fatal to the fish and injurious to the farmer, is prevented thereby from being dumped into the stream.

Sas Gregoria, page 18.

* * * All these mills dump their sawdust and blocks into the stream, which so poisons the water that it has become an intolerable nuisance to all the settlers along the stream below, and will soon exterminate the trout.

Pompona Creek, page 18.

Is four miles from San Gregoria, and is a clear-water trout stream of small volume emptying upon the beach; no mills; plenty of trout.

Pescadero Stream, page 19.

* * * Large quantities of sawdust and blocks are deposited in the stream below the dam, fish are found dead, their eyes eaten out by the strong poisonous acids in the water, and their bodies covered beneath the skin with disgusting blisters like small-pox, while the inside is as black as ink. The waters are rendered at times wholly unfit for use. Eight miles further up this stream is Wolf's steam saw mill, the lumber from which is hauled out to the eastward whilst the sawdust is conveyed down the stream, fatal to the fish and to the interests of everybody. There is but one sentiment existing among the settlers along the streams, and that is this: that they have arrived at a point where forbearance ceases to be a virtue and have resolved to exhaust all legal measures, by their united efforts and similar means to protect their interests against the oppressive and persistent practice of the mill owners in dumping the sawdust into the streams, whereby the whole community below suffer, some hundreds and others thousands of dollars. The effects of the saw mills, during 18 or 20 years, are scarcely perceptible in these almost impenetrable forests, and the united efforts of many mills for

the next twenty years will be required before the woodman's axe will have wrung from the settlers of this nature's retreat in her solitude, that beautiful prayer of "Woodman, spare that tree."

I have communicated with many of the settlers along the banks of all these streams, and have the experience of the oldest settler in this part of the country, and there can be but one conclusion in regard to the fish interests of these streams, and that is that the redwood sawdust poisons the water, and unless some other method be adopted to get rid of it, such as burning it or repairing roads with it, there will not be a breed of trout left in a few years. Where thousands were taken daily (1,300 by one person), now scarcely a trout can be seen. If there are laws to protect them I can see no good reason for not enforcing them, and if this is done, every man's table in this district will be abundantly supplied with trout—a healthy and cheap article of food—while large quantities will find their way as a luxury to the rich man's table at a distance, so long as these streams shall flow "from the mountain to the sea."

RETURN

(44)

To an ORDER of the HOUSE OF COMMONS, dated the 15th May, 1891 :—For copies of all letters, communications and reports in the possession of the Government, relating to the fixing of a Standard of Time, and the legalization thereof.

By order.

J. A. CHAPLEAU,
Secretary of State.

OTTAWA, 4th June, 1891.

CONTENTS.

- No. 1.—Despatch dated 21st November, 1890, from the Colonial Secretary, Lord Knutsford, transmitting certain papers, viz. :—
- (a) Letter dated 26th July, 1890, from the Science and Art Department, expressing concurrence in the views of Mr. Sandford Fleming with reference to time reckoning, and recommending that they be communicated to the Governments of all the Colonies, with a view to the adoption of the Hour Zone system, and the 24-hour notation.
 - (b) Resolutions dated 25th April, 1890, of Committee on the Prime Meridian Conference, supporting the movement for the general reform in time reckoning in all the British possessions.
 - (c) Memorandum of Mr. Sandford Fleming, 20th November, 1889 (with map), on the movement for reckoning time on a scientific basis, by which the greatest possible degree of simplicity, accuracy and uniformity will be obtainable in all countries throughout the world.
- No. 2.—Report, dated 27th December, 1890, of Mr. Charles Carpmael, Director of the Meteorological Department, on the documents referred to in Lord Knutsford's despatch, 21st November, 1890, recommending that with a view of legalizing the new system of reckoning time throughout the Dominion, a Bill be introduced in Parliament as a Government measure.
- No. 3.—Bill referred to in Mr. Carpmael's report, introduced last Session of Parliament by a private member, on the petition of the Canadian Institute and others.
- No. 4.—Petition referred to in Mr. Carpmael's report, from the Canadian Institute, Toronto, the Mayor and Corporation of Toronto, the Board of Trade, and citizens of Toronto.
- No. 5.—Circulars of the Secretary of State, Washington, calling an International Conference, and Resolutions passed by the Washington International Conference of 1884, determining a zero of longitude and standard for time reckoning throughout the globe.
- No. 6.—Bill introduced in the Congress of the United States respecting the reckoning of time throughout the United States.
- No. 7.—Report of the Special Committee on Uniform Standard Time, American Society of Civil Engineers, dated 21st January, 1891.
- No. 8.—Speech of Count Von Moltke, in the Imperial Parliament of Germany, on the time reform movement in Europe, delivered 16th March, 1891.
- No. 9.—Communication dated 1st June, 1891, from the Royal Society of Canada, transmitting report adopted at the Montreal meeting of the Society, and other papers respecting time reckoning.

No. 1.

CIRCULAR DISPATCH FROM THE COLONIAL OFFICE, LONDON,
TO THE GOVERNOR-GENERAL OF CANADA AND THE
GOVERNMENTS OF ALL BRITISH COLONIES.

DOWNING STREET, 21st November, 1890.

SIR,—I have the honour to transmit to you a copy of a letter from the Science and Art Department (26th July, 1890) forwarding a copy of Mr. Sandford Fleming's memorandum on Time Reckoning together with the map which accompanies it.

I have the honour to be, Sir,
Your most obedient, humble servant,

The Officer Administering the Government of Canada. KNUTSFORD.

No. 1 (a.)

Department of Science and Art to Colonial Office.

MEMBERS OF COMMITTEE :

The Astronomer Royal.
Professor J. C. Adams, M.A., F.R.S.
Lt. Gen. R. Stratchey, R.E., C.S.I., F.R.S.
Dr. Hind, F.R.S.
The Hydrographer of the Navy.
Maj. General Donnelly, C.B.

DEPARTMENT OF SCIENCE AND ART,
LONDON, S.W., 26th day of July, 1890.

SIR,—Referring to the letter from the Colonial Office of the 15th February last, transmitting a copy of a despatch from the Governor General of Canada enclosing certain papers relating to the reform in time-reckoning which the Canadian Institute was desirous should be communicated to this Department, I am directed by the Lords of the Committee of Council on Education to inform you that these papers were submitted to the Committee appointed to advise My Lords with reference to this question.

The Committee consider "that it is desirable that Mr. Sandford Fleming's memorandum be forwarded to the Governments of all the Colonies for their consideration with a view to the adoption of the Hour Zone system in reckoning time generally and of the 24 hour notation for railway time tables."

"The Committee desire to express their concurrence in Mr. Sandford Fleming's views as to the advantages which would result from this reform and the ease with which it could be carried out."

I am also to request you to inform the Secretary of State for the Colonies that the Astronomer Royal calls attention to a paper by Dr. Schram published in the April number of the "Observatory" showing that "Standard time" is likely to be adopted shortly on the railways of Germany and Hungary, whilst other European countries are favourably disposed towards it.

I am directed to request that you will be good enough to move Lord Knutsford, should his Lordship consider the action expedient, to cause copies

of the memorandum and of the map which have been printed for the purpose to be sent to the Governors of Her Majesty's Colonies.

The Under Secretary of State
for the Colonies, Colonial Office, S.W.

I am, &c.,
W. D. DONNELLY,

No 1 (b.)

Committee on the Prime Meridian Conference.

Meeting of 25th April, 1890.

Present :—The Astronomer Royal (in the Chair).
The Hydrographer of the Navy.
General Donnelly, C.B.

Resolved—

1. That it is desirable that Mr. Sandford Fleming's Memorandum be forwarded to the Governments of all the Colonies for their consideration, with a view to the adoption of the Hour Zone System in reckoning time generally, and of the 24 hour notation for railway time tables. The Committee desire to express their concurrence in Mr. Sandford Fleming's views as to the advantages which would result from this reform, and the ease with which it could be carried out.

2. That it would be advisable that a similar recommendation should be forwarded to the Indian Government, and that the adoption of the 24 hour notation for railway time tables (which they understand has been adopted on several lines in India) should be recommended to the Railway Companies of the United Kingdom.

No. 1 (c).

MEMORANDUM on the movement for reckoning time on a scientific basis, by which the greatest possible degree of simplicity, accuracy, and uniformity will be obtainable in all countries throughout the world.

1. Notwithstanding the great advance which has been made during the present century, in all the Arts and Sciences and their application to the affairs of human life, the reckoning of time is still in a primitive condition in many countries and in an imperfect condition in every country. Difficulties have been developed since the introduction of rapid means of communication, through the twin agencies steam and electricity, which, when examined, prove that time is computed generally on principles which are untenable. The world's time reckoning is, in fact, an exceedingly complicated combination; it is productive of confusion and the confusion is apt to be increased and intensified as population increases and lines of rapid communication are multiplied.

2. During the last ten years efforts have been made to overcome the evils referred to by establishing a remedial system on a sound scientific basis which would be acceptable to all nations and by which perfect accuracy, uniformity and simplicity would everywhere be obtainable.

3. The subject has been carefully considered by many individuals and by scientific societies in Europe and America. It has been discussed at Geographical and Geodetic Congresses at Venice and Rome; and at conventions of scientists and practical business men in America. On all these occasions the solution of the problem has been promoted. As an outcome of these various meetings and efforts, the President of the United States, under the authority of an Act of Congress, invited the governments of all civilized nations to appoint delegates to meet in conference at Washington to consider the whole question and take decisive action in respect thereto.

4. The Washington Conference embraced delegates from twenty-five nations, they had eight sessions, the first was held on 1st October, 1884, the last on 1st November following. After patient deliberation and discussion the object of this International Conference was accomplished by the passage, with substantial unanimity, of a series of resolutions determining the principles upon which all the nations of the world may unite in the adoption of a universal system of reckoning time.

5. The important results of the Conference are the establishment of (1) a prime meridian for reckoning longitude, (2) a zero for time reckoning, and (3) a unit-measure of time to be common to the whole world.

6. The prime-meridian corresponds with the Greenwich meridian.

7. The zero of time may be defined as the moment of mean solar passage on the anti-prime meridian.

8. The unit-measure of time, designated the universal day, may be defined as the interval between two successive mean solar passages on the anti-prime meridian.

9. The Conference further determined that the hours of the Universal day shall be counted in a single series from zero to 24.

10. The Universal day as defined by the Washington Conference begins and ends at the same moment as the civil day at Greenwich, but it differs from the Greenwich civil day in respect to the numbering of the hours. While the Universal day has a single set of hours numbered from 0 to 24, the Greenwich civil day is divided at noon into halves, the half days before and after noon being sub-divided into separate sets of hours each numbered from 0 to 12 and distinguished as Ante-meridian and Post-meridian. Greenwich time is the local time so-called of the meridian of Greenwich. Universal time, on the other hand, is understood to be common to all localities and the Universal day is held to be the date of the world.

11. Considerable progress has been made in the adoption of the principles of universal time and the practical success which has attended the application of these principles goes to show that the unification of reckoning by the several nations can best be effected step by step.

RECKONING BY HOUR MERIDIANS.

12. The first important step is the adoption of the "Hour Zone System," commonly designated in America "Standard Time." It may be stated, that in the theory of universal time the fundamental principle is unity, it is held, that there is not more than one time in the whole universe and that the idea of separate and distinct times in each separate locality is incorrect. While the essential principle of universal time is indisputable it cannot be denied that a perfectly uniform notation of time throughout the entire globe comes

into direct conflict with our preconceived notions and habits of thought. The Hour Zone system is introduced as an easy means of transition from old to new ideas and it is found that by adopting Hour Meridians as local standards for reckoning, grave difficulties are in a large measure overcome without any violent departure from our inherited usages and prevailing customs. The hour zone system also furnishes the means of applying the correct principles of universal time in ordinary affairs.

13. In the hour zone system the circumference of the globe is divided into twenty-four sections or zones. The central line of each zone is an hour meridian, and the hour meridians are fifteen degrees of longitude apart. The accompanying chart of the world on Mercator's projection shows the geographical position of the twenty-four hour meridians. They are numbered in consecutive order towards the west from zero, the ante-prime meridian.

14. The hour zones theoretically extend seven and a half degrees of longitude on each side of the hour meridians, but in practice that is by no means an essential rule. The boundary line of contiguous zones may be governed by national, geographical, or commercial circumstances.

15. As the earth rotates on its axis in twenty-four hours, an hour elapses between the solar passage on each successive hour meridian; it is obvious therefore that if the reckoning in each zone be governed by its respective meridian, the reckonings everywhere will be directly related. There will be differences but the differences will in every case be known and they will invariably be multiples of an hour. Throughout the globe there will be complete identity in the minutes and seconds. For example, when the reckoning in the tenth zone is six hours twenty-five minutes, in the eleventh zone it will be five hours twenty-five minutes, in the twelfth zone four hours twenty-five minutes, and so on, each successive zone differing by an exact hour. Thus the only departure from complete uniformity of reckoning around the globe will be in the numbers of the hours, but the numbers of the hours being governed by the numbers of the hour meridians, the passage to universal time is simple and direct.

16. As the reckoning in the zone of the twelfth hour meridian corresponds with Universal time the reckonings in all zones to the East of that meridian will be one or more full hours in advance of Universal time, and in all zones to the West of the twelfth hour meridian the reckonings will be behind universal time. Universal time will be the mean of all possible reckonings under the hour zone system, and the Universal day the mean of all possible local days.

17. The hour zone system has been adopted for ordinary use in portions of the three Continents of Asia, Europe, and America. In 1887 an Imperial Ordinance was promulgated directing that on and after the first day of January in the year following, time throughout the Japanese Empire would be reckoned by the third hour meridian. The reckoning in England and Scotland is by the twelfth hour meridian, in Sweden the eleventh hour meridian is the standard and quite recently it has been resolved in Austria-Hungary to be governed by the same meridian. Efforts are now being made to follow the same course in Germany and in other European countries. In North America the hour zone system has been in general use for six years. The reckoning of time being governed as follows, namely:—

By the 16th hour meridian in Nova Scotia and Prince Edward Island.

By the 17th hour meridian in New Brunswick, Quebec, Ontario, Maine, Vermont, Massachusetts, New Hampshire, Connecticut, New York, Pennsylvania, Rhode Island, New Jersey, Maryland, Virginia, North and South Carolina, Georgia, Florida.

By the 18th hour meridian in Manitoba, Kewatin, Minnesota, Wisconsin, Michigan, Iowa, Ohio, Illinois, Indiana, Kentucky, Missouri, Arkansas, Tennessee, Alabama, Mississippi, Louisiana.

By the 19th hour meridian in Assiniboia, Saskatchewan, Alberta, Athabaska, Montana, Dakota, Wyoming, Nebraska, Colorado, Kansas, New Mexico, Texas, Utah, Arizona.

By the 20th hour meridian in British Columbia, Washington, Idaho, Oregon, Nevada, California.

18. The adoption of the hour zone system has been the means of removing the chaos of local times which in many quarters previously caused much friction. Wherever the reckoning is governed by the same standard meridian there is complete uniformity in every division of time. In Japan, Central Europe, Great Britain, United States, Canada and Mexico, identity of reckoning prevails. In all these countries the hours are struck at the same moment, the only difference is in the numbers by which they are locally known; with that single exception every division of the day is simultaneous.

THE 24 HOUR NOTATION.

19. The second important step in regulating the reckoning of time throughout the world, is to abandon the division of the day into ante-meridian and post-meridian hours, separately numbered, and to substitute a single series of hours numbered from 0 to 24. This change was resolved upon by the Washington Conference with respect to the Universal day.

20. The old practice of dividing the day into separate sets of twelve hours, however it arose, has not only no advantage to recommend it, but the usage has been found to have positive disadvantages, which have been brought into prominence within the past generation. The division of the day into halves, doubles the chance of error and tends to confusion in connection with the running of railway trains. The mis-print or mistake of a single letter, A.M. for P.M. or *vice versa* will easily arise to cause inconvenience, loss of time, possibly loss of property, or loss of life.

21. The 24-hour notation, so called, removes all doubt and uncertainty and promotes safety. Where it has been adopted in Canada there is no ambiguity, moreover the change has been effected without difficulty and without danger. The hours having a lower number than twelve are known to belong absolutely to the first part of the day, and those having a higher number to the afternoon and evening.

22. The "24 hour notation" is strongly recommended by prominent men in Russia, Germany, Italy, Austria, Belgium, France, Spain, Great Britain, indeed it may be said in every country in Europe. It is brought into daily use on the great lines of telegraph leading from England to Egypt, India, China, Australia, and South Africa. It is received with very great favour in America. It has been in use for nearly four years on 2354 miles of the Canadian Pacific Railway and for nearly three years on the Canadian Government Railway, the Intercolonial, 986 miles in length. The Managers of these railways and all the employees speak of the "24 hour notation" in the highest

terms. It is the only system in use at this date, north of the 49th parallel and west of 89th meridian. There is not a province in Canada where it is not already in use. It has been adopted on the railways in Nova Scotia, New Brunswick, Prince Edward Island, Manitoba, Assiniboia, Alberta, British Columbia, and partly in Quebec and Ontario ; so satisfactory are the results of the new notation that it has been determined to extend its application and it is expected that before long it will be in general use for railway purposes throughout the Dominion.

23. In the United States a strong expression of opinion in favour of the 24 hour notation has been obtained. The American Society of Civil Engineers, deeply concerned in the perfection of the railway system of the Republic, has since the year 1880 taken an active interest in time reform. This Society led the way in preparing the minds of men for the general acceptance of the Hour Zone system six years ago, and since then it has vigorously directed attention to the "24 hour notation." It has a special Committee whose duty under the authority of the Society is to correspond with Railway Managers on the subject, and in every proper way to promote the adoption of the new notation. The communications which have been sent out by the American Society of Civil Engineers to the leading railway men throughout the country have elicited a very large number of replies. They embrace the opinion of, it is believed, a considerable majority of the managers of all the Railway Companies in North America, and of all who have been heard from about 97 per cent. are in favour of the adoption of the 24 hour notation in the railway service of the country at an early date. It is quite obvious that there is a widespread feeling in favour of the change and it only remains for the General Time Convention, an organized body, representing all the railways in the United States, to take decisive action in the matter, so that the new notation may be brought into use simultaneously in every section of the country.

24. Canada in adopting the hour zone system and in introducing the "24 hour notation" has undoubtedly taken the lead in carrying into effect, in the most practical manner possible, the essential principles of Universal time. The "24 hour notation" has likewise been introduced in the Railway service of China, and it is not a little remarkable that one of the oldest Eastern civilizations conjointly with the youngest Western civilization should set an example in breaking through the trammels of custom to inaugurate a reform which every intelligent person believes to be desirable. Universal time will be substantially adopted in North America so soon as the "24 hour notation" is brought into use throughout the United States. There is but one step necessary to secure to Great Britain all the advantages of Universal time, that is the adoption of the "24 hour notation" ; this one reform concerns the railway system and railway travellers especially, and in a country where all travel more or less, I cannot but think that if English railway managers were informed as to the ease with which the change has been introduced in Canada, and the satisfactory results which have followed, they would very speedily take means to obtain similar advantages. I am confirmed in this view by an examination of the letters which have been received by the Science and Art Department, South Kensington, copies of which I have been favoured with. These letters go to show that the resolutions of the Washington Conference on this subject are cordially favoured by the following important bodies and departments, viz. :—

1. Royal Astronomical Society.
2. The Royal Society.
3. The Board of Trade.
4. The General Post Office.
5. The Eastern Telegraph Company.
6. The Eastern Extension Telegraph Company.
7. The Eastern and South African Telegraph Company.
8. The Society of Telegraph Engineers.
9. The Trinity House.
10. The India Office.
11. The Colonial Office.
12. The Admiralty.

To these may be added the Committee of Council on Education, and the Board of Visitors of the Royal Observatory, Greenwich. Indeed, I cannot learn that a single objection has been received from any quarter.

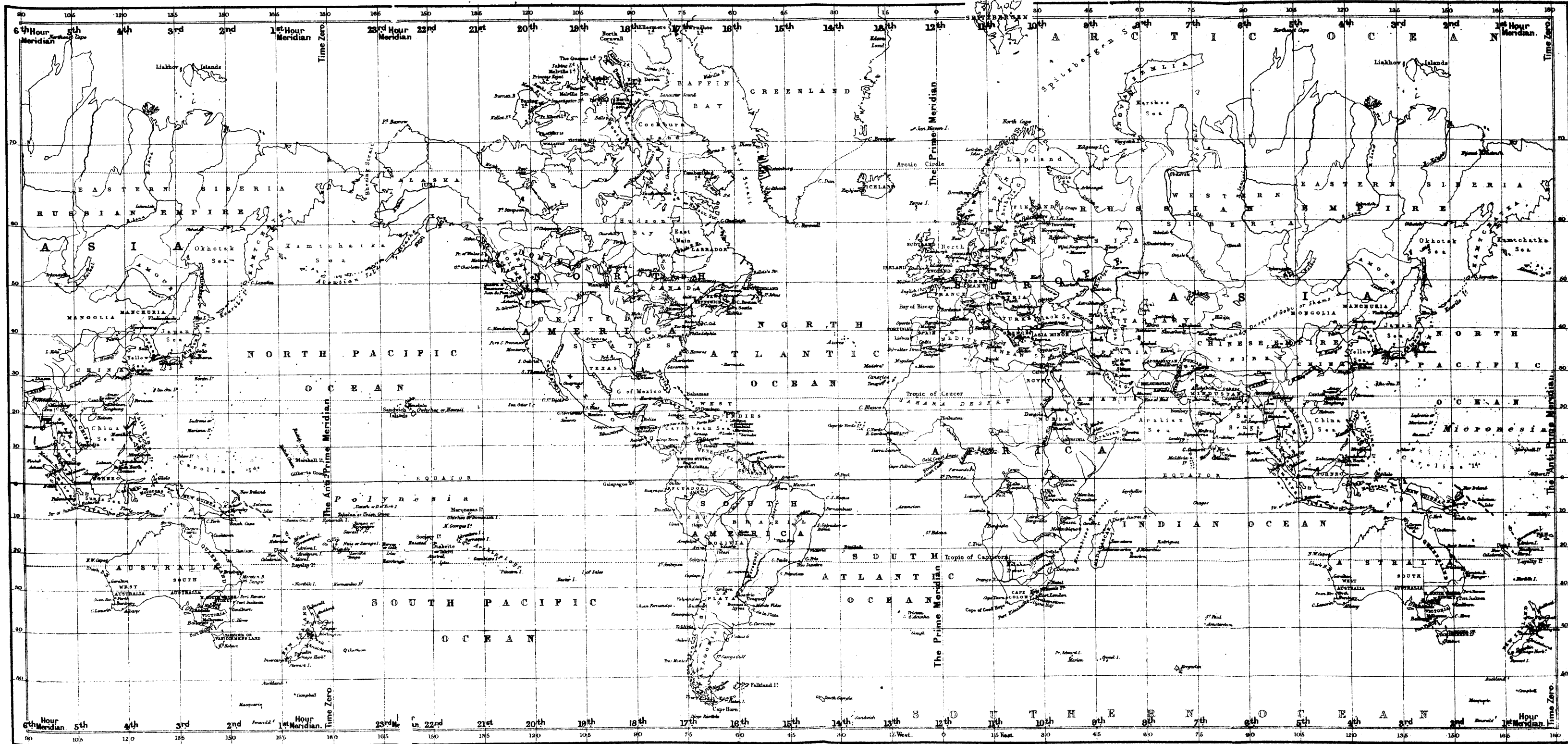
25. As the fundamental objects of the Washington Conference were to remove all doubt and ambiguity in time-reckoning, to prevent discrepancies, to secure simplicity and introduce uniformity, it is manifestly important that the changes proposed, supported as they were at the Conference by the representatives of twenty-five nations, and subsequently looked upon in so many quarters as in themselves intrinsically desirable, should without unnecessary delay be accepted and as far as practicable put in force generally. The first important step is the selection of hour meridians and the adoption of the hour zone system. With these objects in view the accompanying map has been prepared; it shows the position of the twenty-four hour meridians and indicates in a general way the country or section of country to which any particular hour meridian has greatest proximity. It would greatly advance the unification of time throughout the world and greatly promote the common good of mankind if every nation with all convenient speed would take means to select the hour meridians on which its reckoning of time may be based. Appended hereto will be found a table indicating the hour meridians which in each case may be found eligible for selection, but in a matter of this kind each nation must judge for itself.

26. I have mentioned what has been done in America, more especially in Canada, in furtherance of this movement. If means be taken to extend the use of the hour zone system to all the British possessions around the Globe they will individually and collectively participate in the advantages of a common reckoning of time. I venture to submit, suggestively, the appended list of the principal British Colonies and Dependencies with the hour meridians which appear the most suitable for standards in each case.

SANDFORD FLEMING.

OTTAWA, 20th November, 1889.

THE WORLD ON MERCATOR'S PROJECTION, SHEWING THE 24 HOUR MERIDIANS FOR REGULATING STANDARD TIME.



BRITISH POSSESSIONS.

TABLE indicating the Hour Meridians, numbered as on the accompanying Map, which may be selected as Local Standards for reckoning time in each of the several British Possessions.

The last column gives the differences between local reckonings and the time of the world—Universal Time. The sign PLUS indicates that local reckonings are in advance of, and MINUS that they are behind, World Time in each case.

Countries.	Hour Meridians.		Hour Zone Reckonings faster or slower than World Time.
	East or West of Greenwich.	Numbered on Map.	
The British Islands (comprising)—			
England and Wales	0 —	12	0 hours.
Scotland	0 —	12	0 do
Ireland	0 —	12	0 do
Canada (comprising)—			
Nova Scotia	60 west	16	+ 4 do
New Brunswick	75 do	17	- 5 do
Prince Edward Island	60 do	16	- 4 do
Quebec	75 do	17	- 5 do
Ontario	75 do	17	- 5 do
Manitoba	90 do	18	- 6 do
Assiniboia	105 do	19	- 7 do
Saskatchewan	105 do	19	- 7 do
Alberta	120 do	20	- 8 do
Athabasca	120 do	20	- 8 do
British Columbia	120 do	20	- 8 do
Australasia (comprising)—			
New South Wales	150 do	2	+ 10 do
Victoria	150 do	2	+ 10 do
Queensland	150 do	2	+ 10 do
Tasmania	150 do	2	+ 10 do
South Australia	135 east	3	+ 9 do
Western Australia	120 do	4	+ 8 do
New Zealand	165 do	1	+ 11 do
Fiji	165 do	1	+ 11 do
New Guinea	150 do	2	+ 10 do
Possessions in Asia (comprising)—			
India	75 do	7	+ 5 do
Burmah	90 do	6	+ 6 do
Ceylon	75 do	7	+ 5 do
Hong Kong	120 do	4	+ 8 do
Straits Settlements	105 do	5	+ 7 do
Labuan	120 do	4	+ 8 do
West India (comprising)—			
Jamaica	75 west	17	- 5 do
Turks Island	75 do	17	- 5 do
British Guiana	60 do	16	- 4 do
Bahamas	75 do	17	- 5 do
Trinidad	60 do	16	- 4 do
Barbadoes	60 do	16	- 4 do
Grenada	60 do	16	- 4 do
British Honduras	90 do	18	- 6 do
St. Vincent	60 do	16	- 4 do
St. Lucia	60 do	16	- 4 do
Tobago	60 do	16	- 4 do
Antigua	60 do	16	- 4 do
Montserrat	60 do	16	- 4 do
St. Christopher	60 do	16	- 4 do
Virgin Islands	60 do	16	- 4 do
Dominica	60 do	16	- 4 do
Possessions in Africa (comprising)—			
Cape of Good Hope	30 east	10	+ 2 do
Bechuanaland	30 do	10	+ 2 do
Basutoland	30 do	10	+ 2 do
Natal	30 do	10	+ 2 do

BRITISH POSSESSIONS—*Concluded.*
TABLE indicating the Hour Meridians, &c.—*Concluded.*

Countries.	Hour of Meridians.		Hour Zone reckonings faster or slower than World Time.
	East or West of Greenwich.	Numbered on Map.	
Possessions in Africa (comprising)—			
Sierra Leone	15 west	13	- 1 hour.
Gambia	15 do	13	- 1 do
Gold Coast	0 —	12	0 do
Lagos	0 —	12	0 do
Miscellaneous (comprising)—			
St. Helena	0 —	12	0 do
Gibraltar	0 —	12	0 do
Malta	15 east	11	+ 1 do
Cyprus	30 do	10	+ 2 do
Bermuda	60 west	16	- 4 do
Falkland Islands	60 do	16	- 4 do
Heligoland	15 east	11	+ 1 do
Aden	45 do	9	+ 3 do
Ascension	15 west	13	- 1 do
Fanning Island	150 do	22	- 10 do
Mauritius	60 east	8	+ 4 do
Newfoundland	60 west	16	- 4 do

FOREIGN COUNTRIES.

**TABLE showing the Hour Meridians numbered as on the accompanying Map and
conveniently situated for reckoning time under the Hour Zone system.**

The last column gives the difference between local reckonings and the Time of the World—Universal Time.
The sign PLUS indicates that local reckonings are in advance of, and MINUS that they are behind,
World Time in each case.

Argentine Republic	60 west	16	- 4 hours.
Austria Hungary	15 east	11	+ 1 do
Belgium	0 —	12	0 do
Bolivia	60 west	16	- 4 do
Brazil	45 do	15	- 3 do
do	60 do	16	- 4 do
Bulgaria	30 east	10	+ 2 do
Costa Rica	90 west	18	- 6 do
Chili	75 do	17	- 5 do
China	120 east	4	+ 8 do
do	105 do	5	+ 7 do
Columbia	75 west	17	- 5 do
Congo	15 east	11	+ 1 do
Denmark	15 do	11	+ 1 do
St. Domingo	75 west	17	- 5 do
Egypt	30 east	10	+ 2 do
France	0 —	12	0 do
Germany	15 east	11	+ 1 do
Greece	30 do	10	+ 2 do
Hawaii	150 west	22	- 10 do
Honduras	90 do	18	- 6 do
Hayti	75 do	17	- 5 do
Italy	15 east	11	+ 1 do
Japan	135 do	3	+ 9 do
Mexico	105 west	19	- 7 do
Netherlands	0 —	12	0 do
Nicaragua	90 west	18	- 6 do
Norway	15 east	11	+ 1 do
Paraguay	60 west	16	- 4 do
Persia	60 east	8	+ 4 do

FOREIGN COUNTRIES—*Concluded.*TABLE indicating the Hour Meridians, &c.—*Concluded.*

Countries.	Hour Meridians.		Hour Zone reckonings faster or slower than World Time.
	East or West of Greenwich.	Numbered on New Map.	
Peru	75 west	17	- 5 hours.
Roumania	30 east	10	+ 2 do
Siam	105 do	5	+ 7 do
Servia	30 do	10	+ 2 do
Spain	0 —	12	0 do
Sweden	15 east	11	+ 1 do
Switzerland	15 do	11	+ 1 do
Turkey	30 do	10	+ 2 do
Russia in Europe	45 do	9	+ 3 do
do	30 do	10	+ 2 do
Russia in Asia	165 do	1	+ 11 do
do	150 do	2	+ 10 do
do	135 do	3	+ 9 do
do	120 do	4	+ 8 do
do	105 do	5	+ 7 do
do	90 do	6	+ 6 do
do	75 do	7	+ 5 do
do	60 do	8	+ 4 do
Uruguay	60 west	16	- 4 do
United States	75 do	17	- 5 do
do	90 do	18	- 6 do
do	105 do	19	- 7 do
do	120 do	20	- 8 do
Alaska	135 do	21	- 9 do
do	150 do	22	- 10 do
Venezuela	90 do	16	- 4 do

No. 2.

REPORT OF THE DIRECTOR OF THE METEOROLOGICAL
DEPARTMENT, ON THE DOCUMENTS ON TIME RECKONING
FORWARDED BY THE HOME GOVERNMENT.

METEOROLOGICAL OFFICE,

TORONTO, December 27th, 1890.

SIR,—I have to acknowledge the receipt of your letter of the 9th inst., enclosing a letter from Lord Knutsford to His Excellency the Governor General, together with a copy of a letter from the Science and Art Department, forwarding a copy of Mr. Sandford Fleming's memorandum on time reckoning, and map accompanying it, and requesting me to report thereon.

I have the honour to report that on the 4th December, 1889, the Canadian Institute addressed a letter to the Governor General, enclosing a memorandum, prepared by Mr. Sandford Fleming, dated 20th November, 1889. The papers which you sent me show that this memorandum was submitted to a committee consisting of the Astronomer Royal, Professor J. C. Adams, Lt.-Gen. R. Strachey, Dr. Hind, Superintendent Nautical Almanac Office; the Hydrographer of the Navy, and Major-Gen. Donnelly, recommended that copies of the memorandum and of the maps be sent to the Governors of Her Majesty's colonies.

At the last session of Parliament a Bill was introduced by a private member, on petition of the Canadian Institute and others, with the object in view of permitting and legalising the new system of reckoning time, but the matter being but little understood, the Bill was withdrawn. Now that the principles of the system are set forth in a memorandum, which is endorsed by the highest authorities in the service of the Home Government, and the Home Government has seen fit to bring the matter to the attention of the Dominion Government, I would respectfully recommend that a Bill similar to that introduced last session be again presented, this time as a Government measure. This measure would not compel the use of the new system, but merely permit it and define it.

I remain, sir, your obedient servant,

CHARLES CARPMAEL, *Director.*

WM. SMITH, Esq., Deputy Minister Marine, Ottawa.

No. 3.

BILL INTRODUCED IN THE SENATE OF CANADA,
1890.

An Act respecting the Reckoning of Time.

(*Reprinted as proposed to be amended in Committee.*)

Preamble.

WHEREAS on the invitation of the President and Congress of the United States of America, an International Conference was held at Washington in 1884, consisting of duly appointed delegates from twenty-five nations, at which Canada was duly represented, to determine certain leading principles by which the inhabitants of the world could have a common system of reckoning Time; and whereas the said Conference, after prolonged deliberation, unanimously passed resolutions embodying the principles which should govern all nations in the measurement and notation of Time and recommended the meridian passing through the Royal Observatory at Greenwich, England, as a prime or initial meridian for the purpose of a Time-Zero; and whereas the "Hour meridian system," commonly called Standard Time, now in general use in Canada, and the twenty-four hour notation employed in operating the Government railways of Canada and the Canadian Pacific Railway from Lake Superior to Vancouver, are in harmony with the said resolutions and recommendations of the said International Conference; and whereas petitions have been presented to Parliament, urging that it would be in the general public interest to have these reforms in the measurement and notation of time legalized and sanctioned by Parliament; and whereas, since the general adoption throughout Canada of the mode of reckoning known as Standard Time, doubts have arisen as to the reckoning which has force in law and it is expedient to remove all such doubts: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. In so far as Parliament has power to define and control the same, time throughout Canada shall be reckoned in accordance with the hour meridian system, commonly called Standard Time; and the system of hour meridians throughout Canada shall be based on the initial or prime meridian which passes through the Royal Observatory at Greenwich; and the reckoning of time throughout Canada shall be in agreement with the reckoning of civil time at Greenwich, excepting only with respect to the commencement of the day and the notation of the hours, which shall be as hereinafter provided, in all other respects the division and sub-division of the day into hours, minutes and seconds in Canada shall be synchronous with the division and sub-division of the day at Greenwich.

How time is to be reckoned.

System of hour meridians.

Time in Canada to be synchronous with Greenwich time.

2. The commencement of the day and the notation of the hours in the following Provinces and Territories of Canada shall differ from the commencement of the civil day at Greenwich and from the notation of the hours of Greenwich civil time as follows:—

Notation of hours.

(a.) In Prince Edward Island and Nova Scotia they shall be four hours behind the civil time at Greenwich,—that is to say, when it is four by the clock in the morning at Greenwich the day shall commence throughout Prince Edward Island and Nova Scotia, and when it is twelve by the clock at Greenwich it shall be eight by the clock throughout Prince Edward Island and Nova Scotia.

P. E. Island and Nova Scotia.

(b.) In New Brunswick, Quebec and Ontario they shall be five hours behind the civil time at Greenwich.

New Brunswick, Quebec and Ontario.

(c.) In Manitoba they shall be six hours behind civil time at Greenwich.

Manitoba.

(d.) In Assiniboia and Saskatchewan they shall be seven hours behind the civil time at Greenwich.

Assiniboia and Saskatchewan.

(e.) In Alberta, Athabasca and British Columbia they shall be eight hours behind the civil time at Greenwich.

Alberta, Athabasca and British Columbia.

3. The hours of the day may in any of the Provinces or Territories aforesaid be numbered from midnight to midnight in a single series of numbers from one to twenty-four, and this method of designating the hours of the day, commonly known as “The Twenty-four Hour Notation,” shall be equally valid with that of numbering the hours in two series of twelve hours each, from midnight to noon and from noon to midnight, distinguished as *ante meridiem* and *post meridiem* hours.

Governor-in-Council may make regulations for other Territories.

4. The Governor in Council may from time to time, make such regulations as he sees fit, not contrary to this Act, as to all matters relating to the reckoning and notation of time in any part of Canada not mentioned in the second section of this Act.

Hours may be numbered from 1 to 24.

Governor in Council may change notation to suit convenience of particular places.

5. If it is shown to the satisfaction of the Governor in Council that it would be to the advantage or convenience of the inhabitants of any Province, Territory or part of a Province or Territory to have the commencement of the day and the notation of the hours in such Province, Territory, or part thereof, defined otherwise than as in the second section of this Act, the Governor in Council may make such change as he deems expedient, and may appoint the date at which such change shall have effect, and upon proclamation thereof in the *Canada Gazette* such change shall come into force at the date appointed therefor.

6. Whenever the doing or the not doing of anything at a certain time of day, or during a certain part of the day, has an effect in law, such time or part shall be reckoned and ascertained according to the provisions of this Act.

Short title.

7. This Act may be cited as "*The Reckoning of Time Act, 1890.*"

8. This Act shall come into force on the first day of July, A.D. 1891.

No. 4.

PETITION OF THE CANADIAN INSTITUTE, THE MAYOR, CORPORATION AND CITIZENS OF TORONTO ASKING FOR LEGISLATION.

To the Honourable the Senate of the Dominion of Canada, in Parliament Assembled :—

The petition of the undersigned, the President and Members of the Canadian Institute, Toronto; the Mayor and Corporation of the City of Toronto; the Toronto Board of Trade; the Harbour Commissioners; and other citizens of Toronto:

RESPECTFULLY SHEWETH :—

That the establishment of railways and telegraphs has developed imperfections in the ordinary modes of reckoning time, and that during the past ten years efforts have been made to obviate the difficulties which have arisen.

That to discover the means of overcoming the attendant confusion, which results in friction and tends to danger, the subject has received the earnest attention of scientific societies and individuals in Europe and America.

That an International Conference was held at Washington, in 1884, to discuss the question. That the conference consisted of duly appointed representatives from the Governments of twenty-five nations, and that after prolonged discussion in meetings extending over a month, they with unanimity passed resolutions embodying the principles upon which the difficulties may be overcome in all parts of the globe.

That the hour zone system (commonly called Standard Time) and the 24-hour notation are based on the resolutions of the Washington Conference.

And that wherever these systems have been brought into use, great advantages to the public have resulted.

That improvements in time reckoning and their application in every day life have so far not been legalized by Statute, and it would be in the general public interest to have them so legalized.

Wherefore your petitioners humbly pray that the 24-hour notation of time and the hour zone system of reckoning (commonly called Standard Time) be sanctioned and permitted by law throughout the Dominion of Canada.

And as in duty bound your petitioners will ever pray :

CHAS. CARPMAEL,
President Canadian Institute.

F. B. BROWNING,
Vice-President do

ALAN MACDOUGALL,
Secretary do

E. F. CLARK,
Mayor of Toronto.

JNO. BLEVINS,
City Clerk, Toronto.

JOHN J. DAVIDSON,
Pres. Board of Trade, Toronto.

EDGAR A. HILL,
Secretary do

CHARLES B. LEE,
Chairman, Harbour Commis.

MRYANT BALDWIN,
Harbour Master.

L. J. CLARK,
A. MORRISON,
ALEX. MARLING,
GEO. D. SIMPSON,
J. B. WILLIAMS,
H. R. FAIRCLOUGH,
J. DAVIS BARNETT,
JAMES BAIN, jun.,
O. MOWAT,

A. F. CHAMBERLAIN,
GEO. MURRAY,
ROBT. F. SCOTT,
THOMAS LANGTON,
G. B. ABOUT,
ROBERT YOUNG and others.

No. 5.

THE WASHINGTON CONFERENCE, 1884.

CIRCULARS from the Department of State, Washington, in reference to the calling of an International Conference to determine a common zero of Longitude and Standard for Time-Reckoning throughout the Globe.

DEPARTMENT OF STATE, WASHINGTON, 23rd October, 1882.

SIR,—On the 3rd of August last the President approved an Act of Congress in the following words:—

“Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, that the President of the United States be authorized and requested to extend to the governments of all nations in diplomatic relations with our own an invitation to appoint delegates to meet delegates from the United States in the City of Washington at such time as he may see fit to designate, for the purpose of fixing upon a meridian proper to be employed as a common zero of longitude and standard of time reckoning throughout the globe, and that the President be authorized to appoint delegates, not exceeding three in number, to represent the United States in such international conference.

It may be well to state that, in the absence of a common and accepted standard for the computation of time for other than astronomical purposes, embarrassments are experienced in the ordinary affairs of modern commerce; that this embarrassment is especially felt since the extension of telegraphic and railway communications has joined states and continents possessing independent and widely separated meridional standards of time; that the subject of a common meridian has been, for several years past, discussed in this country and in Europe by commercial and scientific bodies, and the need of a general agreement upon a single standard recognized; and that, in recent European conferences especially, favour was shown to the suggestion that, as the United States possesses the greatest longitudinal extension of any country traversed by railway and telegraph lines, initiatory measures for holding an international convention to consider so important a subject should be taken by this Government."

The President, while convinced of the good to flow eventually from the adoption of a common time unit, applicable throughout the globe, thinks, however, that the effort now to be made should be to reach by consultation, a conclusion as to the advisability of assembling an international congress with the object of finally adopting a common meridian. He, therefore, abstains from extending an invitation for a meeting at an assigned day until he has ascertained the views of the leading governments of the world as to whether such international conference is deemed desirable.

I am accordingly directed by the President to request you to bring the matter to the attention of the Government of _____, through the Minister of Foreign Affairs, with a view to learning whether its appreciation of the benefits to accrue to the intimate intercourse of civilized peoples from the consideration and adoption of the suggested common standard of time so far coincides with that of this Government as to lead it to accept an invitation to participate in an international conference at a date to be designated in the near future.

You may leave a copy of this instruction with the Minister for Foreign Affairs, and request the views of his Government thereon, at as early a day as may be conveniently practicable.

I am, Sir, your obedient servant.

FRED'K T. FRELINGHUYSEN.

DEPARTMENT OF STATE, WASHINGTON, December 1st, 1883.

SIR,—By a circular instruction of October 23rd, 1882, you were made acquainted with, (the language of,) an Act of Congress approved August 3rd, 1882, authorizing and requesting the President to extend to other Governments an invitation to appoint Delegates to meet in the city of Washington for the purpose of fixing upon a Meridian proper to be employed as a common zero of longitude and standard of time-reckoning throughout the world; and you were instructed to bring the matter before the attention of the Government to which you are accredited and to inform it that the President deemed it advisable to abstain from the issuance of the formal invitation contemplated, until through preliminary consultation the views of the leading Governments of the world, as to the desirability of holding such an International Conference would be ascertained.

In the year that has since elapsed this Government has received from most of those in diplomatic relations with the United States the approval of the project, while many have in terms signified their acceptance and even named their delegates.

Besides this generally favorable reception of the suggestion so put forth, interest in the proposed reform has been shown by the Geographical Conference held at Rome in October last, which very decisively expressed its opinion in favor of the adoption of the Meridian of Greenwich as the common zero of time longitude, and adjourned, leaving the discussion and final adoption of this or other equivalent unit, and the framing of practical rules for such adoption, to the International Conference to be held at Washington.

The President therefore thinks the time has come to call the Convention referred to in my instruction of October 23rd, 1882. I am accordingly directed by the President to instruct you to tender to the Government of _____, through its Minister for Foreign Affairs, an invitation to be represented by one or more delegates, (not exceeding three) to meet delegates from the United States and other nations in an International Conference to be held in the city of Washington on the 1st day of October next, 1884, for the purpose of discussing, and if possible, fixing upon a meridian proper to be employed as a common zero of longitude and standard of time reckoning throughout the globe.

You will seek the earliest convenient occasion to bring this invitation to the attention of the Minister of Foreign Affairs of _____ by handing him a copy hereof and requesting that the answer of his Government may be made known to you.

I am, Sir, your obedient servant,

FRED'K T. FRELINGHUYSEN.

RESOLUTIONS passed by the International Conference, in its several sessions, extending from October 1st to October 22nd, 1884, and confirmed by Final Act October 22nd.

I. "That it is the opinion of this Congress that it is desirable to adopt a single prime meridian for all nations, in place of the multiplicity of initial meridians which now exist."

This resolution was unanimously adopted.

II. "That the Conference proposes to the Governments here represented the adoption of the meridian passing through the centre of the transit instrument at the Observatory of Greenwich as the initial meridian for longitude."

The above resolution was adopted by the following vote:—

In the affirmative:

Austria-Hungary,	Italy,	Salvador,
Chili,	Japan,	Spain,
Colombia,	Liberia,	Sweden,
Costa Rica,	Mexico,	Switzerland,
Germany,	Netherlands,	Turkey,
Great Britain,	Paraguay,	United States,
Guatemala,	Russia,	Venezuela.
Hawaii,		

In the negative :

San Domingo.

Abstaining from voting :

Brazil,

France.

Ayes, 22 ; noes, 1 ; abstaining, 2.

III. "That from this meridian longitude shall be counted in two directions up to 180 degrees, east longitude being plus and west longitude minus."

This resolution was adopted by the following vote :—

In the affirmative :

Chili,
Colombia,
Costa Rica,
Great Britian,
Guatemala,

Hawaii,
Japan,
Liberia,
Mexico,
Paraguay,

Russia,
Salvador,
United States,
Venezuela,

In the negative :

Italy,
Netherlands,

Spain,
Sweden,

Switzerland.

Abstaining from voting :

Austria-Hungary,
Brazil,

France,
Germany,

San Domingo,
Turkey.

Ayes, 14 ; noes, 5 ; abstaining, 6.

IV. "That the Conference proposes the adoption of a universal day for all purposes for which it may be found convenient, and which shall not interfere with the use of local or other standard time where desirable."

This resolution was adopted by the following vote :—

In the affirmative.

Austria-Hungary,
Brazil,
Chili,
Colombia,
Costa Rica,
France,
Great Britain,
Guatemala,

Hawaii,
Italy,
Japan,
Liberia,
Mexico,
Netherlands,
Paraguay.
Russia,

Salvador,
Spain,
Sweden,
Switzerland,
Turkey,
United States,
Venezuela.

Abstaining from voting

Germany,

San Domingo.

Ayes, 23 ; abstaining, 2.

V. "That this universal day is to be a mean solar day ; is to begin for all the world at the moment of mean midnight of the initial meridian, coinciding with the beginning of the civil day and date of that meridian ; and is to be counted from zero up to twenty-four hours."

This resolution was adopted by the following vote :—

In the Affirmative.

Brazil,	Guatemala,	Paraguay,
Chili,	Hawaii,	Russia,
Colombia,	Japan,	Turkey,
Costa Rica,	Liberia,	United States,
Great Britain,	Mexico,	Venezuela.

In the Negative.

Austria-Hungary,	Spain.
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Abstaining from Voting.

France,	Netherlands,	Sweden,
Germany,	San Domingo,	Switzerland.
Italy,		

Ayes, 15 ; noes, 2 ; abstaining, 7.

VI. "That the Conference expresses the hope that as soon as may be practicable the astronomical and nautical days will be arranged everywhere to begin at mean midnight."

This resolution was passed without division.

VII. "That the Conference expresses the hope that the technical studies designed to regulate and extend the application of the decimal system to the division of angular space and of time, shall be resumed, so as to permit the extension of this application to all cases in which it presents real advantages."

The motion was adopted by the following vote :—

In the Affirmative.

Austra-Hungary,	Hawaii,	Russia,
Brazil,	Italy,	San Domingo,
Chili,	Japan,	Spain,
Colombia,	Liberia,	Switzerland,
Costa Rica,	Mexico,	Turkey,
France,	Netherlands,	United States,
Great Britain,	Paraguay,	Venezuela.

Abstaining from Voting.

Germany,	Guatemala,	Sweden.
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Ayes, 21 ; abstaining, 3.

Done at Washington, the 22nd October, 1884.

C. R. P. RODGERS, *President.*

R. STRACHEY,

J. JANSSEN,

L. CRULS, *Secretaries.*

No. 6.

BILL INTRODUCED IN THE CONGRESS OF THE UNITED STATES.

In the Senate January 16, 1891.

Mr. EVARTS introduced the following bill ; which was read twice and referred to the Committee on the Judiciary.

A BILL

Respecting the reckoning of time throughout the United States.

Whereas an act was passed in eighteen hundred and eighty-two to authorize the President of the United States to call an international conference to fix on and recommend for universal adoption a common prime meridian, to be used in the reckoning of longitude and in the regulation of time throughout the world ; and

Whereas in pursuance of the said act a conference was held at Washington in eighteen hundred and eighty-four, at which twenty-five nations were represented by delegates duly appointed ; and

Whereas the said conference, after prolonged deliberation, with substantial unanimity passed resolutions embodying the principles which should govern in the measurement and notation of time, and recommended the meridian passing through the observatory at Greenwich, England, as a prime meridian for all nations ; and

Whereas the "hour meridian system," commonly called standard time, now in general use in the United States, is in accordance with the said resolutions and is based on the said prime meridian as an initial standard and has been found to be much to the advantage of interstate commerce ; and

Whereas, since the general adoption throughout the United States of the mode of reckoning known as the standard time doubts have arisen as to the reckoning which has force in law, and it is expedient to remove all such doubts : Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That time throughout the United States shall be reckoned in accordance with the hour meridian system, commonly called standard time, and the prime meridian recommended by the Washington International Conference of eighteen hundred and eighty-four shall be the initial standard for reckoning time ; and the meridians which are a multiple of fifteen degrees from the prime meridian shall be the hour meridians or substandards by which the local reckoning of time shall be regulated ; and the reckoning of time throughout the United States shall be in agreement with the reckoning of civil time on the prime meridian, excepting only with respect to the commencement of the day and the notation of the hours, which shall be as hereinafter provided ; in all other respects the division and subdivision of the day into hours, minutes, and seconds in the United States shall be synchronous with the divisions and subdivisions of the day on the prime meridian.

SEC. 2. That the commencement of the day and the notation of the hours in different time sections of the United States shall differ from the commencement of the civil day and the notation of the hours on the prime meridian as follows :

(a) In the time sections where the reckoning of time is regulated by hour meridian number seventeen, or the sub standard meridian which is seventy-five degrees west longitude, the reckoning shall be five hours behind the reckoning on the prime meridian.

(b) In the time section where the reckoning of time is regulated by hour meridian number eighteen, or the sub standard meridian which is ninety degrees west longitude, the reckoning shall be six hours behind the reckoning on the prime meridian.

(c) In the time sections where the reckoning of time is regulated by hour meridian number nineteen, or the sub standard meridian which is one hundred and five degrees west longitude, the reckoning shall be seven hours behind the reckoning on the prime meridian.

(d) In the time section where the reckoning of time is regulated by hour meridian number twenty, or the sub standard meridian which is one hundred and twenty degrees west longitude, the reckoning shall be eight hours behind the reckoning on the prime meridian.

SEC. 3. That the time sections referred to in section two of this act embrace the country on each side of and contiguous to the substandard meridians therein mentioned; but it shall be competent for the constituted authorities of any State, city, incorporated towns and villages, or by the commissioner or courts of any county to adopt the substandard by which to reckon time, as shall seem to them most convenient, and such standard shall be legal and shall be recognized by the courts and officials of the United States; and the time for juridical, municipal, registration, or other purposes in any locality shall, unless otherwise specified, be held to be according to the reckoning so adopted and commonly used by the inhabitants of such locality.

SEC. 4. That the hours of the day may, in any locality, be numbered in a single series of numbers, from zero to twenty-four, and this method of designating the hours, commonly known as "twenty-four hour notation," shall be equally valid with that of numbering the hours in two series of twelve hours each, distinguished as ante-meridian and post-meridian hours.

SEC. 5. That this act shall come into force on _____, anno Domini, eighteen hundred and ninety-one.

No. 7.

ANNUAL REPORT OF THE SPECIAL COMMITTEE ON UNIFORM STANDARD TIME.

AMERICAN SOCIETY OF CIVIL ENGINEERS.

Presented January 21st, 1891.

The Special Committee on Uniform Standard Time begs leave to report: In the last annual report of the Committee it was brought to the notice of the Society that the Government of the United States had not taken any action on the resolutions and recommendations of the International Conference, held in Washington in 1884, and that as Standard Time, so universally adopted in civil life throughout North America, is in complete accord with the resolutions of the Conference, it would be in the public interests to have the recommendations authoritatively recognized by Act of Congress. The suggestions of the Committee having been accepted at the annual meeting, it was

considered advisable to ascertain the views of the members generally. The Board of Directors accordingly submitted to letter-ballot the draft of a memorial, representing to the Government of the United States :

First.—That, in the opinion of this Society it would be in the general interests of the United States to accept formally the resolutions of the International Conference, held at Washington in 1884.

Second.—That, in the opinion of this Society, it would be in the general interests to legalize, by Act of Congress, the now common system of regulating time-reckoning by hour meridians.

Third.—That, in the opinion of this Society, it would be in the general interests to embrace in an Act of Congress a permissive clause, authorizing and legalizing the use of the 24-hour notation.

It was decided by letter-ballot on March 5th that the memorial should be adopted—226 voting “yea,” 7 voting “nay” ; the majority in favour being 219. The memorial has since been duly forwarded to Washington and presented to the President of the United States, and to both Houses. A bill has likewise been prepared in accordance with the terms of the memorial, having in view the desired legislation. This bill has been presented and referred to committees in both Houses. A printed copy of the Senate Bill is appended hereto.

At the last annual meeting the Committee submitted a detailed statement establishing that a majority of the railway managers in the United States and Canada were in favour of the 24-hour notation. Evidence has since been received from officers of railways not before heard from and the Committee is now enabled to report that the total number of railway authorities who have communicated directly with the Society, expressing themselves in favor of the proposed change to the 24-hour notation of time, is as follows, viz. :

1. Presidents, Vice-Presidents and General Managers..	135
2. General Superintendents.....	77
3. Superintendents	114
4. General Traffic Managers.....	12
5. Engineers	65

Total 403

The aggregate length of railway with which these officers are connected is estimated at about 140,000 miles. A list, revised up to the present date, of railway managers in favor of the new notation of time is appended.

From these facts it is plain that the proposal to adopt the 24-hour notation in the working of railways on this continent, meets with general concurrence, and obviously what is required on the part of those who are responsible for the administration of the railway service of the country, to effect the desired change, is to act in accord, and by joint arrangement to fix upon some date when the new notation may be brought into general use for railway purposes. The Committee therefore respectfully recommends that the question of change, together with the evidence of the harmony of opinion which prevails, be brought by this Society in a formal manner to the attention of the General Time Convention and the Board of Railway Presidents at their next periodical meetings.

The advantages of the 24-hour notation are beginning to be recognized in various branches of civil life. In hospitals, for example, to prevent mistakes

by nurses in the administration of medicine, in recording temperatures, and in other matters, the new system is being gradually introduced; also in weather tables and in the recording of meteorological readings; indeed in departments where simplicity of system and accuracy is essential the new notation is being spontaneously brought into use in many quarters. For two or three years back the Canadian Almanac has abandoned the old notation and substituted the new. It is in connection with the railway service, however, that the general introduction of the 24-hour notation may mainly be looked for, and the Committee cannot doubt that, thus brought into use, the intelligence of the community will welcome the change; the ready acceptance of "Standard Time" by the general public throughout the United States and Canada directly on its adoption by the railway authorities, seven years ago, may be instanced. Although it cannot be expected that the 24-hour notation will so speedily come into common use, there are grounds for the belief that eventually it will prevail and become universal.

The Committee has the satisfaction to report that a communication has been received from the Director-General of railways in India, which gives official announcement of the fact that the 24-hour notation has recently come into use on all the railways throughout the Indian Empire, and that this result is partly in consequence of the satisfactory trial of the new system on some of the lines during the past few years.

The Committee has received the strongest assurances from all quarters that wherever the new notation has been adopted in the working of railways, it continues to give increased satisfaction. Experience has shown that the change can be effected with great ease, absolute safety and without creating any disturbing influence in any direction. When your Committee reported a year ago, the 24-hour notation was then in use on less than 4,000 miles of railway. It has now been permanently adopted on an aggregate length exceeding 20,000 miles.

The time-reform movement has for some years attracted much attention in Austria-Hungary, Germany, Italy, France and Belgium, and there is every prospect of the principle of Standard Time being adopted throughout Central Europe at an early day.

An official correspondence has been placed in the possession of the Committee which establishes that the British Government has taken steps which will tend to promote the general adoption of Standard Time and the 24-hour notation in all the British possessions. This correspondence can scarcely fail to be of interest to every member of this Society, inasmuch as we learn by it that the reform in time-reckoning which the American Society of Civil Engineers has taken a leading part in bringing to its present satisfactory condition, meets with the approval and hearty recommendation of the highest scientific authorities in the service of the British Government. The committee in England which has so favorably reported on the universal adoption of Standard Time and the 24-hour notation, consists of the Astronomer Royal, the Superintendent of the Nautical Almanac, the Hydrographer to the Admiralty, and the Secretary of the Science and Art Department, South Kensington, together with Professor Adams and General Strachey, both of whom were delegates at the Washington Conference of 1884.

A memorandum, prepared by a member of the Special Committee on Uniform Standard Time, setting forth the principles of time-reckoning long

advocated by this Society, has been endorsed by these distinguished men, and recently has been sent by the British Government to the governments of all the British possessions around the globe, with a view to the adoption of Standard Time generally and of the 24-hour notation for railway time-tables. The railway companies of England, Ireland and Scotland have likewise been recommended to adopt the 24-hour notation. A copy of this document with its accompanying map is appended hereto.

In concluding this report, the Committee feels that it is not out of place to remark that, as the Members of this Society have in an important manner been associated with the construction of the great artificial highways of commerce on this continent, it was eminently fit and proper that the American Society of Civil Engineers should take a prominent part in promoting a reform in time-reckoning, and in advancing a movement calculated to render the railway system more perfect, its administration more simple, and the railway service more safe to the general public. The Committee feels warranted in pointing out that the important results already secured are in a great measure attributable to the support and countenance given to the movement from the first days of its inception by this Society. It must likewise be obvious that the advantages yet to result will not be confined to the United States, to Canada or to this continent; that the beneficial influence of the American Society of Civil Engineers, in connection with a much-needed reform, which concerns all persons every moment of their lives, will be felt eventually in every civilized country.

This Committee was first appointed at the Convention of the Society held in Montreal in June, 1881. During these (nearly) ten years it has been the earnest endeavour of the members of the Committee to carry out the instructions with which they have from time to time been charged, and they trust they may be permitted to express the satisfaction felt by them with regard to the results so far accomplished. There only remains to complete the labours of the Committee the general introduction of the 24-hour notation throughout this country. There is a reasonable expectation that the reform is now on the eve of adoption in connection with the railways of the United States and Canada, and as that event would practically complete the object for which the Committee was originally appointed, they respectfully submit that the Committee may then with propriety be discharged.

The Committee avail themselves of this opportunity to express their deeply-felt thanks for the confidence which has invariably been reposed in them year by year.

Respectfully submitted,

SANDFORD FLEMING, *Chairman.*

CHARLES PAINE,

THOMAS EGGLESTON,

JOHN M. TOUCEY,

Members of Committee.

Approved, William P. Shinn, President of the Society, *ex-officio* member of the Committee.

No. 8.

GENERAL VON MOLTKE ON TIME REFORM.

To the Editor of THE EMPIRE.

SIR,—One of the last if not the last speech delivered by Count von Moltke in the German imperial parliament was on a subject of special interest to Canadians. On the 16th of last month the venerable statesman-soldier spoke at considerable length on the question of universal time reform, and gave countenance in forcible and clear language in favor of the system which we have introduced into Canada. As the arguments advanced by the aged and distinguished general must affect public opinion not only in Europe, but wherever his name is known, they may be of interest to your readers. I have the satisfaction to transmit a translation of the deceased general's speech, somewhat condensed.

Yours, etc.,
SANDFORD FLEMING.

OTTAWA, April 24.

IMPERIAL GERMAN PARLIAMENT SITTING 16TH MARCH, 1891.

On the question of the imperial railway department, Count von Moltke said :

Gentlemen, allow me a few words on the subject which has been dealt with at an earlier session. I will not long detain you, as I am very hoarse, on which account I have to ask your indulgence.

That unity of time is indispensable for the satisfactory operating of railways in universally recognized, and is not disputed. But, gentlemen, we have in Germany five different units of time. In north Germany, including Saxony, we reckon by Berlin time; in Bavaria, by that of Munich; in Wurtemberg, by that of Stuttgart; in Baden, by that of Karlsruhe, and on the Rhine palatinate by that of Ludwigs-hafen. We have thus in Germany five zones, with all the drawbacks and disadvantages which result. These we have in our own fatherland, besides those we dread to meet at the French and Russian boundaries. This is, I may say, a ruin which has remained standing out of the once piecemeal condition of Germany, but which, since we have become an empire, it is proper should be done away with. (Very true.)

Gentlemen, it may seem to be of slight significance that the railway traveller finds at each new railway station a new notation of time which does not accord with his watch, but all these different times become an actual difficulty of vital importance in carrying on the business of railways, especially for the services which in a military point of view must be demanded.

Gentlemen, in case of mobilization, all the time tables which apply to troops must be detailed in the time used in each locality. Naturally the troops and the inhabitants called out, can only judge by the reckoning at the place of their assembly and at their homes. Equally so the railway authorities sending out the time tables are similarly circumstanced.

As the north German authorities only reckon by Berlin time all the arrangements and tables must be in Berlin time. This repeated elsewhere, easily becomes the source of errors; errors which in their consequences may be very serious. There are circumstances of transport which may very much increase

the difficulty, such as suddenly to change an arrangement, which a stoppage or an accident on the railway would, in a moment, render necessary. Gentlemen, it would be of great advantage if we could attain a common German unity of time; for this, above all others, is the reckoning by 15th meridian east of Greenwich adapted. This meridian cuts through Norway, Sweden, Germany, Austria and Italy. By establishing the 15th meridian as a standard of reckoning there will arise at the extreme eastern boundary a difference of 31 minutes, at the western of 36 minutes. Gentlemen, in south Germany less differences have been easily accepted into customary use, and in America they have much greater differences.

Gentlemen, unity of time merely for the railway does not set aside all the disadvantages which I have briefly mentioned; that will only be possible when we reach a unity of time reckoning for the whole of Germany, that is to say, when all local time is swept away.

Against this project all sorts of prejudices now are felt by the public, I think wrongfully. Certainly, after due consideration, the scientific men of your observatories had given their authority against this spirit of opposition.

Gentlemen, science desires much more than we do. She is not content with a German unity of time, or with that of middle Europe, but she is desirous of obtaining a world time, based upon the meridian of Greenwich, and certainly with full right from her standpoint, and with the end she has in view.

Now, the opinion has been expressed that the introduction of this common time into citizen life would cause confusion. The inconvenience it would cause to manufactories and to industry is especially brought forward. In this relation I must turn to the earlier amplifications of our colleague, Von Strumm. If the difference of time from the 15th degree to some other place is known, for example to Neunkirchen (perhaps 29 minutes), it cannot be difficult to modify the regulations of the factory in accordance with it. If the manufacturer in March desires his men to begin at sunrise, so the regulations can establish 29 minutes past six. If he requires them in February at 10 minutes past six, so the regulations can name 39 minutes past 6, and so on.

How, then, will it affect the agricultural population? Indeed, gentlemen, the agricultural labourer does not pay much attention to the hour. For the most part he has none. He looks around to see if it is already light; then he knows that he will soon be called to work by the court bell. When the court clock goes wrong, which is generally the case—(merriment)—when it is a quarter of an hour too fast, then certainly he comes a quarter of an hour before the time to work, but by the same clock he leaves a quarter of an hour earlier, the duration of work remains the same. Gentlemen, seldom in practical life is punctuality asked in respect to minutes. In many places it is customary for the school hour to be put back 10 minutes, that the children may be present when the teacher arrives. Even the hour of the courts of justice is often put back so that the parties can assemble before the proceedings commence. It is inverted in the villages which lie near the railways. The rule is to put the clock forward some minutes so that the folk do not lose the train. Indeed, gentlemen, this difference often becomes an academic quarter of an hour, and sometimes becomes somewhat longer. (Merriment.)

We have not yet adduced the difference between the time of the sun and mean time. Herr Von Strumm is perfectly right that this difference of time

would be added to the already existing difference. But, gentlemen, we have to reckon both positively and negatively ; in certain times the difference has to be added, in other times to be deducted. The climax of 16 minutes is reached only four days in the year.

Gentlemen, has anybody amongst us who lives punctually by a well regulated clock ever remarked that he, in a fourth part of the year, has sat down to table 16 minutes too early, or that he has retired too early to rest, and in the following fourth of the year too late ? I think not.

Gentlemen, just the circumstances that this not important difference between solar time and mean time is not known to the great part of the public, nor felt by it, appears to me to prove that the apprehensions which are put forth on account of the discontinuance of local time are without ground.

Gentlemen, we are not able by a vote or by resolution to establish all that the movement aims to accomplish. Possibly this may be effected later through international negotiations. But I believe it will assist the movement if the Parliament declares itself in sympathy with a principle which, in America, in England, in Sweden, in Denmark, and Switzerland and in South Germany has already obtained acceptance.

The report of the Imperial Railway Department was approved.

STANDARD TIME—FROM THE "EMPIRE."

24th April, 1891.

The sudden death of General Von Moltke has caused a well known correspondent, Mr. Sandford Fleming, to direct attention to the remarkable speech delivered by the deceased general only last month in the Imperial German Reichstag. The subject is unity of time, and the occasion was during a discussion respecting the adoption throughout the German empire of the same system of time reform which is already introduced in Canada. The speech of Von Moltke, a translation of which appears in another column, appears to have had great influence in Europe ; and the action taken by Germany will, no doubt, lead eventually to a further extension of the principle of reckoning the hours, the adoption of which has removed much friction on this side of the Atlantic. There is still one thing needed in connection with this reform : it requires to be legalized. From Nova Scotia to British Columbia the system is in use, but there is no statute enacting its legality, and doubts have arisen as to the reckoning and notation of time which has force in law. This uncertainty should not exist, as it may involve legal questions in respect to banking, the administration of justice, registration or elections, which will readily suggest themselves to gentlemen engaged in legal pursuits. After the establishment of the railway system in Great Britain, the same uncertainty prevailed and it became necessary to pass an Act prescribing and defining the use of Greenwich time throughout England and Scotland. The same necessity for legislation has become apparent in the United States. A bill was introduced by Mr. Evarts in the Senate and by Mr. Flowers in the House of Representatives, and next session they will undoubtedly become law. Similarly, a bill was introduced into the Canadian Parliament last year by Senator MacInnes, of Burlington, but owing to the late period of its presentation the measure did not get beyond its second reading. We understand that the bill will again be introduced this session.

No. 9.

ROYAL SOCIETY, CANADA, TO THE MINISTER OF MARINE.

ON THE STANDARD UNIT OF TIME AND THE HOUR MERIDIAN.

ROYAL SOCIETY OF CANADA, OTTAWA, 1st June, 1891.

SIR,—I have the honour on behalf of the Royal Society of Canada to transmit several papers for the information of the Government, including a report adopted by the Society at its recent general meeting in Montreal, on “the unit measure” and the “hour meridians” in connection with the subject of universal time reckoning, and bearing on the question of the legislation which is required in the Dominion.

I have the honour to be,
G. C. W. HOFFMANN,
Hon. Secretary.

The Hon. C. H. TUPPER, Minister of Marine.

ROYAL SOCIETY OF CANADA.

Address at the Opening of Section III, by the President, Sandford Fleming, C.M.G., LL.D., M. Inst. C.E., F.G.S., &c., 27th May, 1890.

THE UNIT MEASURE OF TIME.

I desire, at the opening meeting of this Section of the Royal Society, to bring to your attention a subject of some general importance.

For a number of years past attempts have been made on both sides of the Atlantic to effect a reform in the method of reckoning time. The degree of success which has attended the movement is a matter of surprise, when we consider that the changes involve a departure from the usages of society and are in opposition to the customs of many centuries.

The modern introduction of rapid means of communication has created conditions of life different from those of preceding generations. It may be said that until a few years back localities separated by a few miles of longitude were assumed to have distinct and separate notations of time. When many localities were first brought into close relations by the establishment of a line of railway, the different local times (so called) with which the railway authorities had to deal, produced much confusion; in order to attain security for life and property in operating the line, and likewise to promote the convenience of the public using it, it became necessary to observe a uniform notation, which received the name of Railway Time; that is to say, the many local reckonings which prevailed at the numerous points between the two termini were reduced to a single reckoning, common to the many localities.

As lines of railway multiplied, the unification of the reckoning of time became more indispensable, and it early came to be seen that the benefits to result from unification would be in proportion to the extent of territory embraced within its operations. At length it became obvious that uniformity of reckoning might with advantage be extended to a whole continent or the whole globe. Investigation also established that such an extension would contravene no law of nature or principle of science.

The proposal to supersede the numberless local times by a single notation, synchronous in every longitude, had a somewhat utopian aspect. Many indeed regarded it as a revolutionary innovation, for it came into direct conflict with the customs and the habits of thought which had descended from a remote antiquity. Nevertheless, the potent agencies, Steam and Electricity, which have co-operated in making astonishing transmutations in human affairs, have forced on our attention the investigation of time and its notation, and demanded some change to meet the altered circumstances of daily life.

If we consider the nature and attributes of that which we know as time, we will find that it is wholly independent of material bodies and uninfluenced by space or distance; that it is essentially non-local and an absolute unity; that it is not possible for two times to co-exist, or for time to be divided into two parts having a separate entity, in the sense that material things can be divided. This view of time incontrovertibly established, there is no ground for the theory that there are many local times. We may, therefore, sweep away the ordinary usages based on that theory as being unsound and untenable, and the way is made clear for a comprehensive system of time reckoning to embrace the whole globe.

About fourteen years ago the effort was first made to introduce a reform which would satisfy the requirements of the age. Whatever system might be adopted, it was felt that it should be based on the fundamental principle that *there is only one time*. It was, moreover, held to be expedient that there should be only one reckoning of time common to all nations; and to secure a common reckoning, one established zero and one common unit of measurement became necessary.

With the attainment of these objects in view, preliminary discussions took place at the meetings of several scientific associations in Europe and America, and it was held that in a matter of such widespread importance the unit of time should be a measure which could be readily referred to as a perpetual standard for the use of the entire human family. It was likewise felt desirable, if not indispensable, that all nations should acquiesce in its recognition.

It was accordingly proposed at an International Geographical Congress at Venice, in 1881, and confirmed at a Geodetic Congress at Rome held two years later, that the Government of the United States should be invited formally to call a conference of representatives to be specially appointed by the Governments of all civilized nations, to consider the subject and determine the zero and standard of reckoning to be used in common throughout the globe.

Six years ago this conference assembled under the auspices of the United States, in the City of Washington, the Governments of twenty-five nations sending fully accredited delegates. Their deliberations extended over the month of October, 1884; with substantial unanimity they passed a series of resolutions, in which the unit of measurement was constituted, and they recommended that time be computed according to the solar passage on a recognized zero meridian of the earth's surface.

The resolutions of the Washington conference thus authoritatively established the fundamental principles which underlie the scheme for a general unity of time reckoning; each nation being left in its discretion to accept the details of the reform whenever deemed expedient in each individual case. To facilitate the acceptance of the new system, the circumference of the globe has

been divided into twenty-four sections, the reckoning in each section being based on a standard, subsidiary to, but directly related to the unit measure. In the twenty-four subsidiary standards the hours are simultaneous, although differently numbered in accordance with the longitude of the several sections. With the single exception respecting the numbers by which the hours are locally to be known, there is complete identity in every sub-division of time throughout the twenty-four sections. The many local days which follow in succession during each diurnal period are by this arrangement of subsidiary standards reduced to twenty-four normal days, each differing an hour in the moment of its commencement from the day which succeeds. Twelve of these normal days precede and twelve follow the primary standard or unit measure of time, which is the mean of the whole series of normal days. By this expedient, which has received the name of "the standard time system," the means have been provided by which all nations, without any apparent great departure from old usages, may observe substantially the one common reckoning.

The adoption of the system of standard time has already made considerable progress. In North America standard time was first introduced in railway economy; it has since been generally accepted by the mass of the community. In Asia the same system has been legally established throughout the Japanese empire. In Europe a general interest has been awakened on the subject, and at the present moment it attracts special attention in Austria-Hungary, Germany and Belgium; late advices give expression to the belief that standard time will be adopted by the railway service of these countries before many months. It is already observed in Sweden and Great Britain.

Thus, at the present day, standard time has been fully accepted in Asia by not less than forty millions of people, in Europe by almost an equal number, in America by more than sixty millions; and there is scarcely a doubt that in no long period it will be in use throughout the greater part of Central Europe, making a total number of probably two hundred and thirty millions of the most progressive peoples in the three continents who will have accepted the principles of reckoning based on a common unit. Without taking into account Central Europe, where the reform is on the eve of adoption, the unification of time reckoning has so far advanced that in Japan, Norway, Sweden, England, Scotland, Canada and the United States, all well-regulated clocks strike the hours at the same moment (although locally the hours are distinguished by different numbers), and the minutes and seconds in all these countries are absolutely synchronous.

The unit of measurement authoritatively established by the resolutions of the International Conference of 1884 is the basis of the system by which these results have been obtained; and we must regard this new system as the one which shall hereafter be observed by the great mass of the civilized inhabitants of the world in their daily reckonings and in their chronology. It is of first importance, therefore, that no doubt or ambiguity should exist in connection with it. By the resolutions of the conference of 1884 the unit measure may be defined as the interval of duration extending from one mean solar passage on the anti-meridian of Greenwich to the next succeeding passage. This standard unit has been variously designated as follows, viz. :—

- | | |
|-----------------------|------------------------|
| 1. A Universal Day. | 4. A Cosmopolitan Day. |
| 2. A Terrestrial Day. | 5. A World's Day. |
| 3. A Non-Local Day. | 6. A Cosmic Day. |

It requires no argument to show that no one of these six terms is appropriate. The unit of time is not a day in the ordinary sense ; it is indeed much more than an ordinary day. According to our habit of thought, a day is invariably associated with alternations of light and darkness ; and each day, moreover, has a definite relationship to some locality on the surface of the earth. The day as we commonly understand it is essentially local ; and during each rotation of the globe on its axis, occupying a period of twenty-four hours, there are as many days as there are spots on sea and on land differing in longitude. These numberless days are separate and distinct, each having its noon and midnight, its sunrise and sunset. The time-unit is an entirely different conception ; it is equal in length to a day, and must from its nature be synchronous with some one of the infinite number of local days ; by the resolutions of the Washington Conference it is identified with the civil day of Greenwich ; but while the latter is simply a local division of time limited to the Greenwich Meridian, the unit measure is, on the other hand, not so limited ; it is equally related to all points on the earth's surface in every latitude and longitude. Under this aspect, the wider functions and general character of the unit measure remove it from the category of ordinary days, as we understand the familiar expression, and to obviate all doubt and uncertainty regarding it, it is in the highest degree desirable that the universal time-unit should be distinguished by some appellation by which, apart from its local relationship, it may always be indisputably known.

It was Lord Chief Justice Coke who said that "error is the parent of confusion ;" as the primary object of time reform is to obviate confusion, we should take every precaution to preclude error. Is it not therefore expedient that we should adopt means to secure a proper and appropriate designation for the unit measure and abandon as misnomers each one of the terms which have hitherto been applied to it? In a paper on the subject of time reckoning, published in the transactions of this Society in 1886, the unit measure is defined, its uses described, and it is likewise pointed out that its distinctive appellation remains undetermined. I consider it to be my duty to draw attention to the want, and while it would be an act of presumption on my part to propose a name, I will venture the remark that in the general interests of science an effort should be made to supply it. It has been found expedient to derive technical terms from a classical etymology, and I beg leave to suggest that the same rule might be followed in this case with obvious advantage. Whatever name be chosen, if derived from a Greek or Latin root, the word would in all countries have the same definite meaning, and could readily be incorporated into all languages. If such a word be adopted as will clearly express "a unit measure of time" it will gradually come into general use, as in the parallel cases of "telegram," "telegraph," "photograph," "lithograph," etc., and by this means all nationalities will be enabled to give expression to one and the same meaning when they refer to time reckoning in its broad significance.

I humbly submit that the Royal Society of Canada will confer a general benefit and act becomingly by taking the initiative in obtaining an appropriate designation for the unit measure of time.

If that view be concurred in by this Section of the Society, I respectfully suggest that a special committee be appointed to consider the subject, with instructions to report during the present session.

THE UNIT MEASURE OF TIME.

REPORT OF SPECIAL COMMITTEE OF SECTION III.

(*Presented to the Section by Monsignor Hamel.*)

The Committee to whom the expediency of suggesting an appropriate name for the unit measure of time has been referred, begs leave respectfully to report :—

The Committee recognizes the advisability of obtaining a suitable nomenclature, and concurs in the views expressed in the address of the President of the Section as to the expediency of some steps being taken by the Society; the Committee is likewise of opinion that we must seek in the classical languages for the material to construct an appropriate word, which will command the acceptance of every nationality.

The Committee conceives that whatever may be the individual opinions of members of this Society, it is not at present expedient to do more than draw attention to the requirement. Your Committee therefore recommends that in the name of the Royal Society of Canada correspondence be opened with sister societies in other parts of the world, with the view of bringing the subject to their notice, asking the favour of an expression of opinion regarding it.

The Committee recommends that the Council be requested to take such steps as may be deemed expedient to bring the subject to the attention of sister societies.

The above Report was submitted by Section III to the Society, at the general meeting held 29th May, 1890, and approved.

JNO. GÉO. BOURINOT,

Hon. Secretary, R. S. C.

ROYAL SOCIETY OF CANADA.

REPORT of the Time Nomenclature Committee, presented in general meeting by Monsignor Hamel, on behalf of section III and approved by the Society.

MONTREAL, 28th May, 1891.

The Time Nomenclature Committee has considered the question referred to it respecting the "unit of time" and the "hour meridians" and beg leave to report.

THE TIME-UNIT.

The unit of measurement as stated in the address of the President last year (copy appended) is the basis of the new system of universal time reckoning. It is determined by the resolution of the International Conference held at Washington in 1886 when twenty-five nations were represented. So far, the unit is without an appropriate name and the Royal Society has taken the initiative in an effort to supply the requirement. As a result of the action taken by the Society last year the following compound words have been submitted :

1. Chronocanon.....(the time-standard.)
2. Chronomonad.....(the time unit.)
3. Cosmochron.....(the world time.)
4. Cosmognome.....(the world dial or style.)
5. Heliomonad.....(the sun-unit.)

6. Metremer.....(the measuring day.)
7. Metrochron.....(the measuring time.)
8. Monochron(the unit of time.)
9. Nomochron(the law or standard of time.)
10. Pantochron(universal time.)

Two short words have likewise been proposed, to which the Committee desire to direct special attention. The first, "Heliad," derived from Helios (the sun), is thought by some to be "sufficiently self-interpreting," and no further removed from classical usage than many other scientific terms derived from Greek; it has besides a methical and metaphorical propriety, as Heliads (Heliades) in ancient mythology were the children of the sun, and the time measure may also metaphorically be considered a child of the sun.

The second word, "Chroné" or "Chron," as a monosyllable, presents but one verbal element of the idea to be expressed, but it has the advantage of being a chief component part of nearly all words already in common use relating to time. The following may be instanced:—

1. Anachronism—An error in point of time.
2. Chronicle—A narrative in the order of time.
3. Chronic—Continuing a long time.
4. Chronogram—A writing, including the date of an event.
5. Chronograph—An instrument for denoting small intervals of time—a stop watch.
6. Chronometer—An instrument for measuring time.
7. Chronology—The science which treats of dates in the order of time.
8. Chronometry—The art of measuring time.
9. Isochronous—Occurring in equal times.
10. Metachronism—An error in chronology.
11. Parachronism—Dating an event later than the time it happened.
12. Prochronism—Dating an event in advance of the time it happened.
13. Synchronal—Happening at the same time.

THE HOUR MERIDIANS.

The designation of the Hour Meridians is becoming a question of practical interest in nearly all countries, in connection with legislation required respecting the reckoning of time. It is important for this and other reasons that a nomenclature be adopted which will obviate all confusion and give the greatest satisfaction in future years in all quarters of the globe. In North America the meridian 75° west longitude has tentatively received the name "Eastern" from the fact that it passes near the Eastern Coast of the United States. South of the equator however this term is inadmissible inasmuch as the same Hour-meridian follows approximately the Western coast of South America. Again the 105th meridian west has been termed the "Mountain" meridian, for the reason that it traverses the Rocky Mountains where they occur in the United States; but the same meridian followed north passes through the heart of the great Prairie region of Canada, unmarked by the presence of mountains, and followed south beyond the American coast, it meets no land whatever, it passes over only the Pacific Ocean to the Antarctic Circle.

In Europe the name "Adria" has been attached to the meridian 15° East longitude, presumably owing to the fact that it intersects the Adriatic sea. This designation may be held to be acceptable in Europe, but it must be considered as less appropriate in the Southern hemisphere.

Owing to the restricted meaning of nearly all local and geographical terms it is obvious to the Committee that it will be difficult, if not impossible, to secure names based on such terms, which will be generally acceptable, and the difficulty is increased by reason of the diversity of language among the nations.

The Committee, after much consideration, is of opinion that, as a nomenclature based on numbers would have the one meaning in all languages and would be equally appropriate in both hemispheres, the twenty-four hour meridians should be distinguished by numbers. Everything considered it would in the opinion of the Committee be most advantageous to commence the series of numbers at the anti-prime meridian as zero and follow the apparent motion of the sun towards the west. (See explanatory note appended.)

This principle generally assented to, the Hour meridians which constitute the substandards for universal time-reckoning would be numbered as follows:—

Anti-Prime Meridian	180° east and west from Prime Meridian,	"Zero."
Hour Meridian	165° east longitude,	numbered 1, "Unus."
do	150° do	2, "Duo."
do	135° do	3, "Tres."
do	120° do	4, "Quatuor."
do	105° do	5, "Quinque."
do	90° do	6, "Sex."
do	75° do	7, "Septem."
do	60° do	8, "Octo."
do	45° do	9, "Novem."
do	30° do	10, "Decem."
do	15° do	11, "Undecim."
do	0° Prime Meridian,	numb'd 12, "Duodecim."
do	15° west longitude,	number'd 13, "Tredecim."
do	30° do	14, "Quatuordecim."
do	45° do	15, "Quindecim."
do	60° do	16, "Sedecim."
do	75° do	17, "Septemdecim."
do	90° do	18, "Octodecim."
do	105° do	19, "Novemdecim."
do	120° do	20, "Viginti."
do	135° do	21, "Viginti unus."
do	150° do	22, "Viginti duo."
do	165° do	23, "Viginti tres."

Anti Prime Meridian 180° east and west longitude "Zero."

With the view of obtaining approval to the proposed nomenclature, or an expression of opinion regarding it, the Committee recommend that the Council be requested to bring the matter to the attention of scientific men and sister societies in other countries.

CHARLES CARPMAEL,
Chairman of Committee.

Approved at the General Meeting of the Society held at Montreal 29th May, 1891.

GEO. M. GRANT,
President.

GEO. STEWART,
Acting Honorary Secretary.

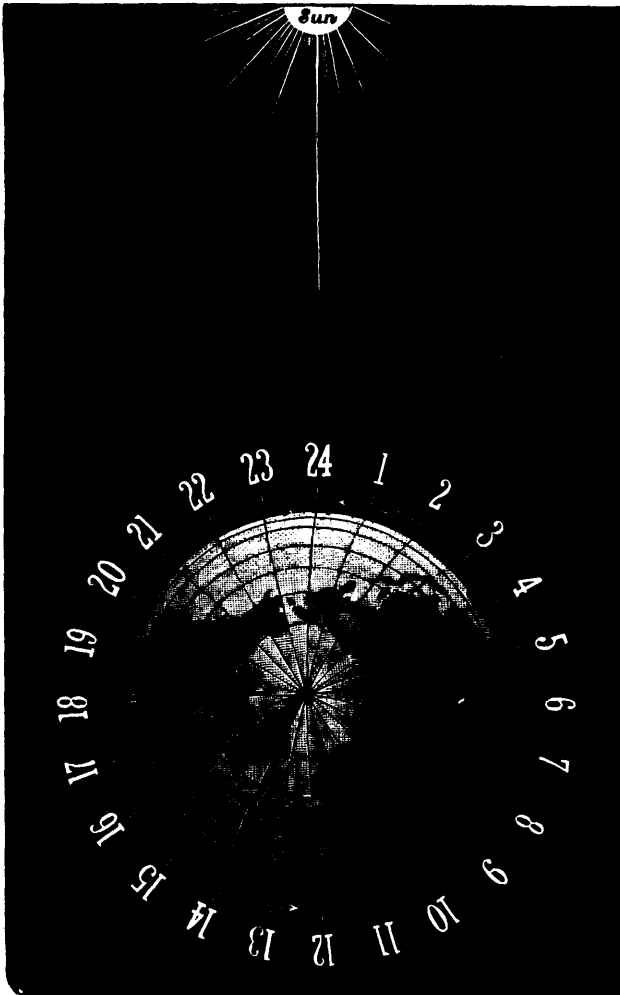
EXPLANATORY NOTE RESPECTING THE HOUR MERIDIANS AND HOUR ZONES.

For other reasons than those referred to in the report, the Hour Meridians should be distinguished by numbers in the order indicated.

1. The twenty-four hour meridians take their origin from the recognized zero of time, which is diurnally determined by the solar passage on the anti-prime meridian; it is therefore natural that if they are to be known by numbers, the series of numbers should begin at the anti-prime meridian as zero.

2. If we commence to observe the passage of time at the instant of zero, in the lapse of an hour the earth will have revolved on its axis fifteen degrees and brought the first hour meridian west of the anti-prime meridian under the sun. What more appropriate designation for this hour meridian than number one? (*unus*), at the end of the second hour the earth will have revolved another fifteen degrees and brought under the sun the second hour meridian west of the anti-prime meridian. With equal propriety this may be termed hour meridian number two (*duo*), similarly the third, fourth and every one of the twenty-four hour meridians may be numbered in consecutive order.

If this mode of distinguishing the hour meridians is characterised by simplicity, it will likewise be found to be convenient. Referring to the accompanying projection of the northern hemisphere, the figures around the circumference indicate the hour meridians numbered on this principle: These figures likewise indicate the twenty-four hours into which the world's standard unit measure of time is divided. The motion of the earth on its axis brings each hour meridians in succession to its solar passage, and by numbering them as described a complete coincidence is obtained between the hour meridians and the hours of the world's standard. For example when the solar passage is on hour meridian number twelve it will be 12 o'clock — when on hour meridian number seventeen it will be 17 o'clock and so on for every meridian. Thus we realize the conception



that the earth itself is the great standard chronometer while the sun is the index to point out the hours.

The hour zone system has been designed to facilitate a common reckoning in all longitudes without any apparent wide departure from old usages and prevailing customs. The proposed manner of numbering the hour meridians establishes a direct relationship between the reckoning in each zone or section and the world's standard. This relationship may conveniently be reduced to the following formula:—

Let H be the number of the hour meridian, then—

(1.) In the zone of hour meridian number 12 (*duodecim*) (corresponding with the meridian of Greenwich) the notation of the hours will agree with the world's standard.

(2.) In all EAST longitudes, the notation will be in advance of the world's standard; the number of hours FASTER than W.S. will in each case equal twelve *minus* H .

(3.) In all WEST longitudes the notations will be behind the world's standard; the number of hours SLOWER than W.S. will in each case equal H *minus* twelve.

The distinguishing number of each hour meridian will be the key to the notation in the zone of that meridian, and it will denote the precise relation which the local reckoning bears to the world's standard.

By this system, uniformity of reckoning throughout the globe will be unbroken, except in the numbers by which the hours will be distinguished in the several zones. The notation will differ an even hour from zone to zone. In all other respects there will be complete identity of reckoning and everywhere synchronism will practically prevail.

RETURN

(47)

To an ORDER of the HOUSE OF COMMONS, dated the 27th of May, 1891;—For a Return showing the number of bushels of Potatoes exported from Canada, from 1st October, 1890, to 1st May, 1891, and the place to which exported.

By order.

J. A. CHAPLEAU,
Secretary of State.

STATEMENT of the Quantity of Potatoes exported from Canada, from the 1st October, 1890, to the 1st April, 1891, with the Countries to which exported.

Articles.	Countries to which Exported.	Quantity Exported.
		Bushels.
Potatoes	Great Britain	1,993
	United States	1,850,190
	Newfoundland	36,735
	St. Pierre	6,372
	British West Indies	50,031
	Spanish do	155,030
	Danish do	102
	French do	150
	British Guiana	22,676
	United States of Colombia	2,357
	Total	2,125,636

Detailed returns of exports are only received quarterly by the Customs Department. The exports of potatoes for April cannot therefore be given without reference to each port in the Dominion.

J. JOHNSON,
Commissioner of Customs.

CUSTOMS DEPARTMENT,
OTTAWA, 2nd June, 1891.

RETURN

(51)

TO AN ADDRESS of the HOUSE OF COMMONS, dated the 5th May, 1891;—For copies of all correspondence, petitions, memorials, and any other documents submitted to the Privy Council, in connection with the abolition of the official use of the French language in the Province of Manitoba by the Legislature of that Province; also copies of reports to or Orders in Council thereon; also copies of the Act or Acts relating thereto.

By order.

GEO. E. FOSTER,

For Secretary of State.

OTTAWA, 17th June, 1891.

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GOVERNMENT HOUSE, WINNIPEG, 31st March, 1890.

SIR,—I have the honour to transmit, herewith, copies of certain representations made to me by Honourable James E. P. Prendergast, M.P.P., for Woodlands, on behalf of the present M.P.P.'s. for Carillon, Cartier, LaVerandrye, Morris, St. Boniface and himself, regarding certain Bills; viz. :—

“An Act to provide that the English language shall be the official language of the Province of Manitoba.”

“An Act respecting Public Schools,” and

“An Act respecting the Department of Education,” passed during the third Session of the Seventh Provincial Legislature, to which assent was given this day by me.

I have, etc.,

JOHN SCHULTZ, *Lieutenant-Governor.*

The Hon. the Secretary of State, Ottawa.

WINNIPEG, 27th March, 1890.

SIR,—On behalf of the honourable members for Carillon, Cartier, LaVerandrye, Morris and St. Boniface, and of myself, I beg leave to respectfully represent to Your Honour that the Legislative Assembly at this present Session, being the third Session of the Seventh Legislature, has passed a Bill intituled, “An Act to provide that the English language shall be the official language of the Province of Manitoba,” and to most humbly submit that the said Bill is *ultra vires* for reasons more fully set forth in the memorandum hereto annexed.

I have the honour to be, sir, your most humble servant.

JAMES E. P. PRENDERGAST, *Member for Woodlands.*

To His Honour the Honourable JOHN SCHULTZ,
Lieutenant Governor of Manitoba, &c., &c., &c.,
Government House, Winnipeg.

MEMORANDUM respecting a Bill intituled “An Act to provide that the English language shall be the Official language of the Province of Manitoba.”

It is submitted that section 133 of “The British North America Act, 1867,” which applies to the Parliament of Canada and the Legislature of Quebec, is similar to, and drafted in the same words, *mutatis mutandis*, as clause 23 of “The Manitoba Act,” applying to the Legislature of Manitoba, and that any interpretation attaching to the former should also attach to the latter.

THE BRITISH NORTH AMERICA ACT, 1867.

Section 133 of the above Act reads as follows :—

“Either the English or the French language may be used by any person in the debates of the House of Parliament of Canada, and of the House of the Legislature of Quebec; and both these languages shall be used in the respective records or journals of those Houses, and either of those languages may be used by any person in any pleading or process. The Acts of the Parliament of Canada and of the Legislature of Quebec shall be printed and published in both languages.”

The spirit which has presided to the enacting of the above clause is fully illustrated by the reports of the debate on Confederation.

Hon. Mr. Évanturel (page 943) says :—

“I wish to put a question to the Government. I acknowledge that if I confined myself to consulting my own ideas, I should not put this question; but I do so in order to meet the wishes of several of my friends, both within this House and beyond its precincts. Those friends have expressed alarm in relation to one of the

clauses of the resolutions, and have requested me to ask an explanation from the Honourable Attorney General for Upper Canada as to the interpretation of that clause. I have, therefore, to ask him whether Article 46 of the resolutions, which states that both the English and French languages may be employed in the General Parliament and its proceedings, and in the Local Legislature of Lower Canada, is to be interpreted as placing the use of the two languages on an equal footing in the Federal Parliament. In stating the apprehensions entertained by certain persons on this subject, I hope the Government will not impute to me any hostile intention, and will perceive that the course I adopt is in their interest, as it will give them an opportunity of dissipating the apprehensions in question. (Hear, hear)."

Hon. Attorney General Macdonald answers as follows:—

"I have very great pleasure in answering the question put to me by my hon. friend for the County of Quebec. I may state that the meaning of one of the resolutions adopted by the Conference is this: that the rights of the French Canadian members, as to the status of their language in the Federal Legislature, should be precisely the same as they now are in the Provincial Legislature of Canada in every possible respect. I have still further pleasure in stating that the moment this was mentioned in Conference the members of the deputation from the Lower Provinces unanimously stated that it was right and just: and without one dissentient voice, gave their adhesion to the reasonableness of the proposition that the status of the French language as regards the procedure in Parliament, the printing of measures, and everything of that kind, should precisely be the same as it is in this Legislature."

It is admitted that the only thing promised after all in the above by the Hon. the Attorney General for Upper Canada is that the French language would be placed in the Federal Parliament on the same footing it occupied then—that is, under the "Union Act."

It must be equally admitted that under the "Union Act," as originally drafted, the English language alone could be used in Parliament; and that whilst, by 11 and 12 Vic. (Imperial), the two languages were subsequently put on a par, yet there was nothing in this amending Act making its object indefeasible—that is to say, that the use of the French language, although introduced, was yet left, as to its own continuance, to the will of the majority.

Having those facts in mind, the above declarations of the Attorney General for Upper Canada were not considered sufficient, and at the next page of the *Debates* Hon. (now Sir) A. A. Dorion is reported as saying:—

"If to-morrow the Legislature chooses to vote that no other but the English language should be used in our proceedings, it might do so, and thereby forbid the use of the French language. There is, therefore, no guarantee for the continuance of the use of the language of the majority of the people of Lower Canada but the will and forbearance of the majority of Parliament."

To which the Hon. Mr. Macdonald replies:—

"I desire to say that I agree with my honourable friend that, as it stands just now, the majority governs; but in order to cure this, it was agreed at the Conference to embody the provision in the Imperial Act. This is proposed by the Canadian Government for fear an accident might arise subsequently, and it was assented to by the deputation for each province that the use of the French language should form one of the principles upon which the Confederation would be established, and that its use as at present should be guaranteed by the Imperial Act."

To the above declarations affecting more the Federal Parliament, Hon. Attorney General Cartier adds further declarations affecting the Province of Quebec. At the same page of the *Debates*, he is reported as saying:—

"I will add that it was also necessary to protect the English minority in Lower Canada with respect to the use of their language. The members of the Conference were desirous that it should not be in the power of the majority to decree the abolition of the English language in the Local Legislature of Lower Canada, any more than it will be in the power of the Federal Legislature to do so with respect to the use of the French language."

It is submitted that the following conclusions may be legitimately drawn from the above:—

1. That the official use of their language was solemnly guaranteed to the English-speaking minority of the Province of Quebec in the Local Legislature.

2. That this guarantee was an indefeasible one, or in the words of Hon. Mr. Cartier, "that it would not be in the power of the majority to decree the abolition of the English language."

3. That this privilege of the minority should not be interpreted in its narrowest sense, but (in the words of Mr. Evanturel) as placing the use of the two languages on an "equal footing," or, again (in the words of Hon. Mr. Macdonald) "as applying to the procedure in Parliament, the printing of measures, and everything of that kind."

That all the phrases in the said section of the British North America Act, 1867, having as joint subjects the Federal Parliament and the Legislature of Quebec, all the declarations quoted as to the former must necessarily apply to the latter, and *vice versa*.

AMENDMENTS TO PROVINCIAL CONSTITUTIONS.

In case it should be contended that the Legislature of Quebec has power to decree the abolition of the official use of the English language, by virtue of sub-clause 1 of clause 92 of the British North America Act, 1867, it is respectfully submitted that the words "the constitution of the Province," used in the said sub-clause, apply only to such matters as are mentioned and provided for in Division Five (V) of the said Act, headed "*V. Provincial Constitutions*;" and that the dual language claim being not contained in the said division, it is beyond the power of the Legislature of Quebec to amend it.

THE MANITOBA ACT.

It is respectfully submitted that inasmuch as Clause XXIII of the Manitoba Act is an absolute reproduction (*mutatis mutandis*) of clause 133 of the British North America Act, 1867, the standing of the French language in Manitoba is the same as that of the English language in Quebec, and that all privileges and disabilities in connection with the latter are privileges and disabilities in connection with the former.

THE BRITISH NORTH AMERICA ACT, 1871.

It is further respectfully submitted that even had the Legislature of Quebec power to repeal the dual language clause of the British North America Act, 1867, the Legislature of Manitoba is stopped from altering the provisions of the Manitoba Act, by 34 of 35 Vic., cap. 28 (Imperial), also known as "The British North America Act, 1871," section 6 of which reads as follows:—

"Except as provided by the third section of this Act, it shall not be competent for the Parliament of Canada to alter the provisions of the last mentioned Act, 'The Manitoba Act,' subject always to the right of the Legislature of the Province of Manitoba to alter from time to time the provisions of any law respecting the certification of electors and members of the Legislative Assembly, and to make laws respecting elections in the said Province."

A PRECEDENT.

It is further respectfully submitted that in 1879 Hon. Mr. (now Judge) Walker, then Attorney-General of Manitoba, introduced in this Legislature a Bill to abolish the printing in French of all public documents except the statutes. The Journals of that year show that the said Bill was read a first, second and third time, but the schedule of Acts assented to at the close of the Session show that said Bill is not therein included, and that it was not sanctioned.

Humbly submitted.

JAMES E. P. PRENDERGAST, *M. P. P. for Woodlands.*

LEGISLATIVE ASSEMBLY OF THE PROVINCE OF MANITOBA,
WINNIPEG, 28th March, 1890.

SIR,—On behalf of the members for Carillon, Cartier, La Verandrye, Morris and St. Boniface, as well as in my own name, I beg to represent respectfully to your honour that the Legislative Assembly has passed during its present session, amongst others, two Bills respectively, intituled, "An Act respecting the Department of Education" and "An Act respecting Public Schools," and to submit most humbly that the said Bills are *ultra vires* for reasons more fully set forth in the memorandum herewith enclosed.

I have the honour to be, sir, your most respectful servant,
JAMES E. P. PRENDERGAST, *M.P.P. for Woodlands.*

His Honour the Honourable JOHN SCHULTZ,
Lieutenant Governor, &c., &c., Government House,
Winnipeg.

MEMORANDUM respecting a Bill intituled "An Act respecting the Department of Education" and a Bill intituled "An Act respecting Public Schools."

It is respectfully submitted that the Bills above mentioned are and constitute a gross and direct violation of the rights and privileges guaranteed to the Roman Catholic minority of Her Majesty's subjects in the Province of Manitoba by section 93 of "The British North America Act, 1867," and section 22 of "The Manitoba Act."

It is submitted that the first sub-clause of said section 22 of "The Manitoba Act" recognizes the law or practice followed prior to Union, as a source of indefeasible rights and privileges with respect to denominational schools.

By the practice followed, the Roman Catholic denomination, and in fact all the religious denominations known in the country then enjoyed the following privileges:—

1. They each had their denominational schools, there being, in fact, then, no other schools than denominational schools in the country.
2. Each denomination (whether by their clergy, laymen or otherwise) had the privilege of determining the curriculum of the course of studies to be followed in their respective schools, so that the convictions and consciences of the parents were not violated in their children.
3. The practice, the general practice, was that each denomination supported its own schools.

The above practice is perfectly supported and illustrated by letters from the respective Boards of the Roman Catholic, Episcopalian and Presbyterian denominations, as reproduced in Mr. H. T. Hind's Report of the Red River Expedition, in the chapter concerning education.

Whilst recognizing the supreme right of the Legislative Assembly of voting aids and subsidies, it is further submitted that, prior to union, the only monies spent for public purposes, and which could in any sense be considered as public monies, were those of the Honourable the Hudson Bay Company, and that it was the practice for said company to grant yearly certain sums to the three denominations named for their mission work, a most important part of which was their educational work.

It is respectfully submitted that the said Bill respecting the Department of Education is, considered in its whole and more particularly by sections, determining the powers of and creating the Department of Education and the Advisory Board, in violation of the rights and privileges above mentioned; and so for the said Bill respecting Public Schools, particularly by sections six, seven and eight, and by chapters headed "Compulsory Education," and "Penalties and Prohibitions" and "School Assessment."

It is further respectfully submitted that by sub-clause 3 of clause 93 of "The British North America Act, 1867," and by sub-clause 2 of clause 22 of "The Manitoba Act" all Acts passed after the Union authorizing separate or denominational schools, are also recognized as a source of indefeasible rights and privileges.

That the said Bills passed during the present session are also in this respect in violation of such rights and privileges is evident from the fact that the said Bills expressly upset "The Manitoba School Act" now in force, and the denominational schools established thereunder, and substitute in lieu of the latter non-sectarian public common schools.

All of which is most respectfully submitted.

JAMES E. P. PRENDERGAST,
M. P. P. for Woodlands.

(Translation.)

No. 2.

EPISCOPAL RESIDENCE, THREE RIVERS, 12th May, 1890.

SIR,—The unjust law passed by the Government of Manitoba against the Catholic and French-speaking population of that Province, to abolish Separate Schools and suppress the official use of the French language, went into force on the 1st May, instant. The protests of the minority, so shamefully treated by this iniquitous law, have been laid before the Dominion Government, with a view to secure the disallowance thereof and to obtain the protection guaranteed to them by the Constitution. I feel confident that the Government, of which you are one of the leaders, will lend a willing ear to that appeal to its authority, and will enforce respect for the rights of that minority by disallowing a law which is nothing short of persecution, as it is admitted by Protestants themselves. The courage with which you repelled a like attempt in the North-West Territories is my warrant for believing that you will take a firm stand in this matter. It was in the name of the Federal compact that the abolition of Separate Schools was maintained a few years ago in New Brunswick, and yet the Catholic Ministers who then formed part of the Federal Government declared to the bishops that they were prepared to resign on that question, and it was only through respect for the autonomy of the Provinces that that unjust law was then tolerated.

To-day it is in the name of the Federal compact that the Manitoba minority are claiming protection against an unjust law which violates the Federal compact, for that compact guarantees to them the official use of the French language on the same footing as the English language and the maintenance of Separate Schools,—conditions without which the Catholic and French-speaking population of Manitoba would never have consented to enter Confederation. That guarantee has now been trampled under foot by the Act passed by Hon. J. Martin, under which, without the shadow of a pretext, that minority have been deprived of a right held most sacred by every people, the right of preserving the language and the faith of their fathers.

I trust, therefore, that the Ministers who are entrusted with our religious and national interests in the Dominion Government will to-day exhibit the same firmness as their predecessors, and that they will succeed in convincing their honourable colleagues that if they would maintain a good understanding between our citizens of diverse origin and insure peace and the maintenance of Confederation, they must of necessity do justice to the minority in Manitoba, and protect them against the iniquitous persecution inflicted upon them by the majority, at the instigation of a few fanatics.

In my humble opinion, this is a much more serious matter than the Riel question, for it is a direct attack upon the two sentiments dearest to the heart of man, language and faith.

Trusting that no Catholic French Canadian member of the Government will take upon himself, in the face of the country, the responsibility of maintaining a law so clearly unjust and hostile to our nationality,

I remain, with the highest consideration, Hon. Sir,

Your devoted servant,

† L. L. Bp. of Three Rivers.

Hon. J. A. CHAPLEAU,
Secretary of State, Ottawa.

No. 3.

To the Right Honourable Sir FREDERICK ARTHUR STANLEY, Baron Stanley of Preston, in the County of Lancaster, in the Peerage of the United Kingdom; Knight Grand Cross of the Most Honourable Order of the Bath, Governor General of Canada and Vice-Admiral of the same.

MAY IT PLEASE YOUR EXCELLENCY:

To allow the undersigned, Roman Catholic Archbishop of Manitoba, to lay respectfully before Your Excellency the following observations and requests:

Previous to the transfer of the North-West Territories to the Dominion of Canada, there prevailed a great uneasiness amongst the inhabitants of the said Territories, with regard to the consequences of the transfer. The Catholic population especially, mostly of French origin, thought they had reason to foresee grievances on account of their language and their religion, if there were no special guarantee given as to what they considered their rights and privileges. Their apprehensions gave rise to such an excitement that they resorted to arms; not through a want of loyalty to the Crown, but only through mere distrust towards Canadian authorities, which were considered as trespassing in the country, previous to their acquisition of the same. Misguided men joined together to prevent the entry of the would-be Lieutenant-Governor.

The news of such an outburst was received with surprise and regret, both in England and Canada. All this took place in the autumn of 1870.

I was in Rome at the time, and at the request of the Canadian authorities I left the Œcumenical Council to come and help in the pacification of the country. On my way home, I spent a few days in Ottawa. I had the honour of several interviews with Sir John Young, then Governor General, and with his Ministers. I was repeatedly assured that the rights of the people of Red River would be fully guarded under the new régime; that both Imperial and Federal authorities would never permit the new-comers in the country to encroach on the liberties of the old settlers; that on the banks of the Red River, as well as on the banks of the St. Lawrence, the people would be at liberty to use their mother tongue, to practise their religion and to have their children brought up according to their views.

On the day of my departure from Ottawa, His Excellency handed me a letter, a copy of which I attach to this as Appendix A, and in which are repeated some of the assurances given verbally. "The people", says the letter, "may rely that respect and attention will be extended to the different religious persuasions."

The Governor General, after mentioning the desire of Lord Granville "to avail of my assistance from the outset," gave me a telegram he had received from the Most Honourable the Secretary of the Colonies, which I attach to this as Appendix B, and in which His Lordship expressed the desire that the Governor General would take "every care to explain where there is a misunderstanding, and to ascertain the wants and conciliate the good will of all the settlers of the Red River."

I was, moreover, furnished with a copy of the Proclamation issued by His Excellency on the 6th of December, 1869, which I attach to this as Appendix C. In this Proclamation we read: "Her Majesty commands me to state to you that she will be always ready, through me as her Representative, to redress all well-founded grievances, and any complaints that may be made, or desires that may be expressed to me as Governor General.

"By Her Majesty's authority I do therefore assure you that on your union with Canada, all your civil and religious rights and privileges will be respected."

A delegation from Red River had been proposed as a good means of giving and receiving explanations conducive to the pacification of the country. The desirability of this step was urged upon me as of the greatest importance, and the Premier of Canada, in a letter I attach to this as appendix D, wrote to me: "In case a delegation is appointed to proceed to Ottawa, you can assure them that they will be kindly received and their suggestions fully considered. Their expenses coming here and returning and while staying in Ottawa will be defrayed by us."

I left after having received the above-mentioned instructions and reached St. Boniface on the 9th of March, 1870.

I communicated to the dissatisfied the assurances I had received, showing them the documents above cited. This largely contributed to dispel fears and to restore confidence. The delegation which had been delayed was definitely decided upon. The delegates appointed several weeks before, received their commission afresh. They proceeded to Ottawa; opened negotiations with the Federal authorities, and with such result that on the 3rd of May, 1870, Sir John Young telegraphed to Lord Granville: "Negotiations with delegates closed satisfactorily."

The negotiations provided that the denominational or separate schools would be guaranteed to the minority of the new Province of Manitoba. The French language received such recognition that it was decided it would be used officially both in Parliament and in the Courts of Manitoba.

The Manitoba Act was then passed by the House of Commons and Senate of Canada and sanctioned by the Governor General.

The said Act received the supreme sanction of the Imperial Parliament, which thus took under its own safeguard the rights and privileges conferred by it.

I take the liberty to here cite most of the two clauses relating to denominational schools and official use of the French language.

Clause 22. "In and for the Province, the said Legislature may exclusively make laws in relation to education, subject and according to the following:

"(10) Nothing in such law shall prejudicially affect any right or privilege with respect to denominational schools, which any class of persons have by law or practice in the Province at the Union.

"(20) An appeal shall lie to Governor General in Council from any Act or decision of the Legislature of the Province, or any other Provincial authority affecting any right or privilege of the Protestant or Roman Catholic minority of the Queen's subjects in relation to education."

Clause 23. "Either the English or the French language may be used by any person in the debates of the Houses of the Legislature, and both those languages shall be used in the respective Records and Journals of those Houses, and either of these languages may be used by any person, or in any pleading or process in or issuing from any court of Canada established under the British North America Act, 1867, or in or from all or any of the courts of the Province. The Acts of the Legislature shall be printed and published in both these languages."

According to the provisions above mentioned, the Legislature of Manitoba always recognized the Catholic schools as an integral part of the educational system of the Province. The use of the French language met with the same recognition. Everything went on smoothly and harmoniously in that respect since the establishment of the Province until a few months ago.

Without stating any fair reason for the change, and without any public movement to determine it, the Provincial Cabinet of Mr. Greenway has brought before the Legislature and secured the passing of Acts of such a radical character against the French and the Catholics, that a decided Protestant influential newspaper has not hesitated to say: "That is not legislation, but persecution."

I know that the laws I allude to are to be remitted to Your Excellency along with this, so I do not add a copy of the same.

I consider the laws just enacted by the Legislature of Manitoba, to abolish the Catholic schools and the official use of the French language, as an unwarranted violation of the promises made before and to secure the entry of this country into Confederation.

I consider such laws as a death blow to the very Constitution of this Province. They are detrimental to some of the dearest interests of a portion of Her Majesty's most loyal subjects. If allowed to be put in force, they will be a cause of irritation, destroy the harmony which exists in the country and leave the people under the painful and dangerous impression that they have been cruelly deceived and, because a minority, they are left without protection, and that against the promise made 20

years ago by the then immediate representative of Her Majesty: "Right shall be done in all cases."

I, therefore, most respectfully and most earnestly pray that Your Excellency, as the representative of our most beloved Queen, should take such steps that in your wisdom would seem the best remedy against the evils that the above mentioned and recently enacted laws are preparing in this part of Her Majesty's domain.

With most profound respect and full confidence,

I remain Your Excellency's

Humble and obedient servant,

ALEX., *Arch. of St. Boniface, O.M.I.*

St. BONIFACE, 12th April, 1890.

A.

Letter to Bishop Taché.

OTTAWA, 16th February, 1870.

MY DEAR LORD BISHOP,—I am anxious to express to you, before you set out, the deep sense of obligation which I feel is due to you for giving up your residence at Rome, leaving the great and interesting affairs in which you were engaged there and undertaking at this inclement season the long voyage across the Atlantic and long journey across the continent for the purpose of rendering service to Her Majesty's Government, and engaging in a mission in the cause of peace and civilization.

Lord Granville was anxious to avail of your valuable assistance from the outset, and I am heartily glad that you have proved willing to afford it so promptly and generously.

You are fully in possession of the views of my Government, and the Imperial Government, as I informed you, is earnest in the desire to see the North-West Territory united to the Dominion on equitable conditions.

I need not attempt to furnish you with any instructions for your guidance beyond those contained in the telegraphic message sent by Lord Granville on the part of the British Cabinet, in the proclamation which I drew up in accordance with that message, and in the letters which I addressed to Governor McTavish, your Vicar-General, and Mr. Smith.

In this last note, "all who have complaints to make" or wishes to express are called upon to address themselves to me, as Her Majesty's representative, and you may state with the utmost confidence that the Imperial Government has no intention of acting otherwise than in perfect good faith towards the inhabitants of the North-West. The people may rely that respect and attention will be extended to the different religious persuasions; that title to every description of property will be carefully guarded, and that all the franchises which have subsisted, or which the people may prove themselves qualified to exercise, shall be duly continued and liberally conferred."

In declaring the desire and determination of Her Majesty's Cabinet, you may safely use the terms of the ancient formula, "Right shall be done in all cases."

I wish you, dear Lord Bishop, a safe journey and success in your benevolent mission.

Believe me, with all respect, faithfully yours,

JOHN YOUNG.

B.

Telegram sent by Lord Granville to Sir John Young, dated the 25th November, 1869.

The Queen has learned with regret and surprise that certain misguided men have joined together to resist the entry of her Lieutenant-Governor into Her Majesty's possessions in the Red River.

The Queen does not distrust her subjects' loyalty in those settlements, and must ascribe their opposition to a change, plainly for their advantage, to misrepresentations or misunderstanding. She relies upon your Government for taking every care to explain where there is a misunderstanding, and to ascertain the wants and conciliate the goodwill of all the settlers of the Red River. But at the same time she authorizes you to tell them that she views with displeasure and sorrow their lawless and unreasonable proceedings, and she expects that if they have any wish to express or complaints to make they will address themselves to the Governor of the Dominion of Canada, of which in a few days they will form a part.

The Queen relies upon her representative being always ready on the one hand to give redress to well-founded grievances, and on the other to repress with the authority with which she has entrusted him any unlawful disturbance.

C.

PROCLAMATION, (V.R.)

“By His Excellency the Right Honourable Sir JOHN YOUNG, Baronet, a Member of Her Majesty's Most Honourable Privy Council, Knight Grand Cross of the Most Honourable Order of the Bath, Knight of the Most Distinguished Order of St. Michael and St. George, Governor General of Canada.

“To all and every the loyal subjects of Her Majesty the Queen, and to all to whom these presents shall come,— GREETING :

“The Queen has charged me, as Her representative, to inform you that certain misguided persons in Her settlements on the Red River have banded themselves together to oppose by force the entry into Her North-Western Territories of the officer selected to administer, in Her name, the Government, when the territories are united to the Dominion of Canada, under the authority of the late Act of the Parliament of the United Kingdom; and that those parties have also forcibly, and with violence, prevented others of Her loyal subjects from ingress into the country.

“Her Majesty feels assured that she may rely upon the loyalty of Her subjects in the North-West, and believes those men who have thus illegally joined together have done so from some misrepresentation.

“The Queen is convinced that in sanctioning the union of the North-West Territories with Canada, she is promoting the best interests of the residents, and at the same time strengthening and consolidating Her North American possessions as part of the British Empire. You may judge, then, of the sorrow and displeasure with which the Queen views the unreasonable and lawless proceedings which have occurred.

“Her Majesty commands me to state to you, that she will always be ready through me, as Her representative, to redress all well-founded grievances, and any complaints that may be made, or desires that may be expressed to me as Governor General. At the same time she has charged me to exercise all powers and authority with which she has invested me in the support of order, and the suppression of unlawful disturbances.

“By Her Majesty's authority, I do therefore assure you that on the union with Canada, all your civil and religious rights and privileges will be respected, your properties secured to you, and that your country will be governed, as in the past, under British laws, and in the spirit of British justice.

“I do further, under Her authority, entreat and command those of you who are still assembled and banded together, in defiance of law, peaceably to disperse and return to your homes, under the penalties of the law in case of disobedience.

“And, I do lastly inform you, that in case of your immediate and peaceable obedience and dispersion, I shall order that no legal proceedings be taken against any parties implicated in these unfortunate breaches of the law.

"Given under my hand and seal at arms at Ottawa, this sixth day of December, in the year of our Lord one thousand eight hundred and sixty-nine, and in the thirty-second year of Her Majesty's reign.

"By command,

"JOHN YOUNG.

"H. L. LANGEVIN, Secretary of State."

D.

(Private.)

DEPARTMENT OF JUSTICE, Ottawa, 16th February, 1870.

MY DEAR LORD,—Before you leave Ottawa on your mission of peace, I think it well to reduce to writing the substance of a conversation I had the honour to have with you this morning.

I mark this letter private in order that it may not be made a public document, to be called for by Parliament prematurely; but you are quite at liberty to use it in such a manner as you may think most advantageous.

I hope that ere you arrive at Fort Garry, the insurgents, after the explanations that have been entered into by Messrs. Thibault, DeSalaberry and Smith, will have laid down their arms, and allowed Governor McTavish to resume the administration of public affairs. In such case, by the Act of the Imperial Parliament of last session, all the public functionaries will still remain in power, and the Council of Assiniboia will be restored to their former position.

Will you be kind enough to make full explanation to the Council on behalf of the Canadian Government, as to the feelings which animate, not only the Governor General, but the whole Government, with respect to the mode of dealing with the North-West. We have fully explained to you, and desire you to assure the Council authoritatively, that it is the intention of Canada to grant to the people of the North-West the same free institutions which they themselves enjoy.

Had not these unfortunate events occurred, the Canadian Government had hoped long ere this, to have received a report from the Council, through Mr. McDougall, as to the best means of speedily organizing the Government, with representative institutions. I hope that they will be able immediately to take up that subject, and to consider and report, without delay, on the general policy that should immediately be adopted.

It is obvious that the most inexpensive mode for the administration of affairs should at first be adopted. As the preliminary expense of organizing the government after union with Canada, must, in the first, be defrayed from the Canadian treasury, there will be a natural objection in the Canadian Parliament to a large expenditure.

As it would be unwise to subject the Government of the Territory to a recurrence of the humiliation already suffered by Governor McTavish, you can inform him that if he organizes a local police, of twenty-five men, or more, if absolutely necessary, that the expense will be defrayed by the Canadian Government.

You will be good enough to endeavour to find out Monkman, the person to whom, through Colonel Dennis, Mr. McDougall gave instructions to communicate with the Salteux Indians. He should be asked to surrender his letter, and informed that he ought not to proceed upon it. The Canadian Government will see that he is compensated for any expense that he has already incurred.

In case a delegation is appointed to proceed to Ottawa, you can assure them that they will be kindly received and their suggestions fully considered. Their expenses coming here and returning, and whilst staying in Ottawa, will be defrayed by us.

You are authorized to state that the two years which the present tariff shall remain undisturbed will commence from the 1st January, 1871, instead of last January as first proposed.

Should the question arise as to the consumption of any stores or goods belonging to the Hudson Bay Company by the insurgents, you are authorized to inform the

leaders that if the Company's government is restored, not only will there be a general amnesty granted, but in case the company should claim the payment for such stores, that the Canadian Government will stand between the insurgents and all harm.

Wishing you a prosperous journey and happy results.

I beg to remain, with great respect,

Your very faithful servant,

JOHN A. MACDONALD.

To the Right Reverend the Bishop of St. Boniface, Fort Garry.

No. 4.

To the Right Honourable SIR FREDERICK ARTHUR STANLEY, Baron Stanley of Preston, in the County of Lancaster, in the Peerage of Great Britain, Knight Grand Cross of the Most Honourable Order of the Bath, Governor General of Canada, &c., &c., &c.

MAY IT PLEASE YOUR EXCELLENCY,—The petition of the undersigned dutiful subjects of Her Most Gracious Majesty, and members of the Legislative Assembly of the Province of Manitoba, most humbly sheweth:—

That the seventh Legislature of the Province of Manitoba, in its third Session, which opened on the 30th day of January, A. D. 1890, and prorogued on the 31st day of March of the same year, has passed, amongst others, two Acts respectively intituled: "An Act respecting the Department of Education," a copy of which is shown in Dominion Sessional Paper No. 63, 1891, page 12, and "An Act respecting Public Schools," a copy of which is shown in the same Sessional Paper, page 14.

That the said Act, intituled: "An Act respecting the Department of Education," although passed by the said Legislature as aforesaid, did not receive the approval of any of the members (whether of the Roman Catholic or Protestant persuasion) belonging to Her Majesty's Loyal Opposition in the said Legislative Assembly, as shown by a copy of the Journals of the House, contained in Appendix "C" hereto attached, but, on the contrary, received the reproval of all the members of Her Majesty's said loyal Opposition, except that of Mr. Lagimodière, a Roman Catholic, and member for La Verandrye, who was detained from his parliamentary duties through serious illness prevailing in his family; and that the said Act, intituled: "An Act respecting Public Schools," although passed by the said Legislative Assembly as aforesaid, did not receive the approval of any of the members (whether of the Roman Catholic or Protestant persuasion) belonging to Her Majesty's Loyal Opposition in the said Legislative Assembly, but, on the contrary, received the reproval of all of the said members, as again shown by the copy of the Journals of the House, contained in Appendix "C" hereto attached.

That the said Bills violate the sacred and constant rights of Her Majesty's Roman Catholic subjects of the Province of Manitoba, in relation to education; and

That for reasons more fully set forth in Appendix "D" hereto attached, the said Bills are *ultra vires* and have been passed in defiance of the Imperial Parliament under whose sanction the British North America Act, 1867, and the British North America Act, 1871, 34-35 Victoria, chapter 28, were enacted.

Your petitioners, therefore, humbly pray that Your Excellency may be pleased to take such action and grant such relief and remedy as to Your Excellency may seem meet and just.

And your petitioners, as in duty bound, shall ever pray:

JAMES E. P. PRENDERGAST, M.P.P. for

Woodlands.

R. E. O'MALLEY, M.P.P. for Lorne.

THOMAS GELLEY, M.P.P. for Cartier.

WM. LAGIMODIÈRE, M.P.P. for La

Verandrye.

WINNIPEG, 14th April, 1890.

ERNEST J. WOOD, M.P.P. for Cypress.

ROYER MARION, M.P.P. for St. Boniface.

MARTIN JÉRÔME, M.P.P. for Carillon.

A. F. MARTIN, M.P.P. for Morris.

The undersigned, respectively members of the Senate and House of Commons of Canada, fully endorse the contents of the present memorial, and earnestly join in the prayer therein contained.

MR. A. GIRARD, Senator.

A. A. LARIVIÈRE, M.P.

For Provencher, Man.

OTTAWA, 26th April, 1890.

APPENDIX "C."

No. 26.

VOTES AND PROCEEDINGS OF THE LEGISLATIVE ASSEMBLY OF
MANITOBA.

WINNIPEG, WEDNESDAY, 5th March, 1890.

Sitting at 7.30 o'clock, p.m.

The Order of the day being read for the House to resume the adjourned debate on the question which was on Tuesday last proposed, that the Bill (No. 12) respecting the Department of Education be now read a second time, and the question being again proposed, the House resumed the said adjourned debate.

* * * * *

Then the main question being put, the House divided, and the names being called for, they were taken down as follows:—

YEAS:—Messieurs Campbell (Souris), Campbell (South Winnipeg), Coleleugh, Crawford, Dickson, Fisher, Graham, Greenway, Harrower, Hettle, Jackson, Jones, Lawrence, McKenzie, McLean, McMillan, Martin (Portage la Prairie), Mickle, Morton, Sifton, Smart, Smith, Thomson (Emerson), Thompson (Norfolk), Winkler, Young.—26.

NAYS:—Messieurs Gelley, Gillies, Jérôme, Marion, Martin (Morris), Norquay, O'Malley, Prendergast, Roblin, Wood.—10.

So it was resolved in the affirmative.

TUESDAY, 18th March, 1890.

Sitting at 7.30 o'clock, p.m.

The Hon. Mr. Martin moved, seconded by the Hon. Mr. Greenway—

And the question being proposed,

That the rules of the House be suspended, and the Bill (No. 13) respecting Public Schools, be now read a third time;

And a debate arising thereupon,

And the House having continued to sit till after twelve of the clock on Wednesday morning.

WEDNESDAY, 19th March, 1890.

* * * * *

Then the main question being put, the House divided, and the names being called for, they were taken down as follows:—

YEAS:—Messieurs Campbell (Souris), Campbell (South Winnipeg), Coleleugh, Crawford, Dickson, Morton, Greenway, Harrower, Hettle, Jackson, Jones, Lawrence, McLean, McMillan, Martin (Portage la Prairie), Mickle, Graham, Sifton, Smart, Smith, Thomson (Emerson), Thompson (Norfolk), Winkler, Young.—25.

NAYS:—Messieurs Gelley, Gillies, Jérôme, Lagimodière, Marion, Martin (Morris), Norquay, O'Malley, Prendergast, Roblin, Wood.—11.

So it was resolved in the affirmative.

APPENDIX "D."

Her Majesty's Roman Catholic subjects in the Province of Manitoba claim certain rights and privileges in relation to education, under section 93 of the Imperial Act 30 and 31 Vic., cap. 3, being the "British North America Act, 1867," and under section 22 of the Act of Canada, 33 Vic., cap. 3, generally known as "The Manitoba Act."

Section 93 of the British North America Act, 1867, reads as follows:—

XCIII. "In and for each province, the Legislature may exclusively make laws in relation to education, subject and according to the following provisions:—

1. "Nothing in any such law shall prejudicially affect any right or privilege with respect to denominational schools which any class of persons have by law in the Province at the Union;

2. "All the Powers, &c. &c., (applying only to Upper Canada and Quebec).

3. "Where in any Province a system of separate or dissentient schools exists by law at the Union, or is thereafter established by the Legislature of the Province, an appeal shall lie to the Governor General in Council from any Act or decision of any provincial authority affecting any right or privilege of the Protestant or Roman Catholic minority of the Queen's subjects in relation to education;

4. "In case any such provincial law, as from time to time seems to the Governor General in Council requisite for the due execution of the provisions of this section, is not made, or in case any decision of the Governor General in Council on any appeal under this section is not duly executed by the proper Provincial authority in that behalf, then and in every such case, and as far only as the circumstances of each case require, the Parliament of Canada may make remedial laws for the due execution of the provisions of this section, and of any decision of the Governor General in Council under this section."

Section 22 of the Manitoba Act reads as follows:—

XXII. "In and for the said Province, the said Legislature may exclusively make laws in relation to education, subject and according to the following provisions:

"(1.) Nothing in any such law shall prejudicially affect any right or privilege with respect to denominational schools which any class of persons have by law or practice in the Province at the Union;

"(2.) An appeal shall lie to the Governor General in Council from any Act or decision of the Legislature of the Province or of any provincial authority, affecting any right or privilege of the Protestant or Roman Catholic minority of the Queen's subjects in relation to education;

"(3.) In case any such provincial law, as from time to time seems to the Governor General in Council requisite for the due execution of the provisions of this section, is not made, or in case any decision of the Governor General in Council on any appeal under this section is not duly executed by the proper provincial authority in that behalf, then, in every such case, and as far only as the circumstances of each case require, the Parliament of Canada may make remedial laws for the due execution of the provisions of this section, and of any decision of the Governor General in Council under this section."

The words underlined in the above two sections are not in italics in the printed statutes, but are here so underlined to point out the discrepancies between the two said sections.

PRELIMINARY.

It having been repeatedly contended that the above two clauses may be altered by the Legislature of the Province, it is necessary, before studying them upon their merits, to first lay down the proposition:

That section 93 of the British North America Act, 1867, and section 22 of the Manitoba Act, whether considered in their nature, or as affected by other clauses of the same Acts or by other Acts, cannot be altered or repealed by the Legislature of the Province.

Considered in their nature.—Two things are necessary to the existence of a state; certain public bodies (legislative, judicial and otherwise) coming under the general term “institutions,” and giving an organic existence to the state, and a power delegated to those bodies of exercising their proper functions. Hence, all the articles or provisions of a written constitution, without exception, may be divided into two classes: the first creating such public bodies or organizations; the second vesting in them certain powers.

The provisions of the first class may, or may not be, subsequently altered by the legislative authority of the state constituted, depending in this upon the intention to be gathered from the constitution as to whether it was meant that the institutions should be permanent or subject to alteration.

On the other hand, and by their very nature, the provisions of the second class, constituting invariably a delegation of powers, cannot in any way be altered by the state, whose only prerogative is to exercise those powers within the limits and subject to the restrictions of the delegation.

This is not legal controversy, but a conclusion dictated by plain common sense.

It would be superfluous to show that the clauses quoted above do not create institutions organic or otherwise, but merely constitute a delegation of powers which may be wide or narrow, but surely cannot be exceeded.

Considered as affected by other clauses or other acts.—Even if it be not repugnant to the nature of that class of provisions to which the clauses quoted evidently belong, it is submitted that the Legislature of Manitoba could not alter the said clauses.

(a.) The words “the constitution of the Province” used in clause 92 of the British North America Act, 1867, giving to Provincial Legislatures the power to amend from time to time * * * “the constitution of the Province,” are a clear reference to the words “Provincial constitutions” anteriorly used in the Act as the heading of Chapter V, “Provincial Constitutions;” so that, in this respect, Provincial Legislatures are only empowered to amend such provisions as are contained in said Chapter V.

(b.) Whatever may be of this power under the British North America Act, 1867, the powers of the Legislature under the Manitoba Act are even more restricted, section 6, of 34 and 35 Victoria, Chapter 28 (Imperial) reading as follows:—

6. “Except as provided by the third section of this Act, it shall not be competent for the Parliament of Canada to alter the provisions of the last-mentioned Act (the Manitoba Act), subject always to the rights of the Legislature of the Province of Manitoba to alter from time to time, the provisions of any law respecting the qualification of electors and members of the Legislative Assembly and to make laws respecting electors in the said Province.”

It is therefore submitted, as a conclusion, that the education clauses quoted could not be altered or repealed by the Legislature of Manitoba.

It may also be added, as a matter of fact, that the Legislature has not altered, nor attempted to alter the said clause.

Having then to deal with the said sections as they are, it remains to examine them upon their merits.

THE MANITOBA ACT.

Section 22.

XXII. “In and for the Province of Manitoba, the said Legislature may exclusively make laws in relation to Education, subject and according to the following provisions:”

This first paragraph, which is exactly similar to the first paragraph of clause 93 of the British North America Act, 1867, deals with the general power vested in the Legislature of passing educational laws subject to certain restrictions.

Now, as to these restrictions.

Sub-Clause.

(1.) "Nothing in any such law shall prejudicially affect any right or privilege with respect to denominational schools, which any class of persons have by law or practice in the Province at the Union."

This sub-clause only differs with sub-clause 1 of Section 93 of the British North America Act, 1867, in that the words "or practice" have been added to the former.

Nothing in any such Law.—These words, preceding the words "shall prejudicially affect," certainly convey a much stronger sense than would the words "such laws shall not prejudicially affect." This intention to restrict as much as possible in this respect the powers of the Legislature, shall be noticed throughout the whole section.

Shall prejudicially affect.—Not "repeal," nor "deny," nor "abolish" nor "violate," but merely "affect." And upon reading the debates upon Confederation, wherein it appears with what anxiety and particular care this question of the schools of the minorities was dealt with, a difficulty which, in fact, was repeatedly on the eve of proving a stumbling-block to the federative compact, one may easily realize the imperative motives which withheld from the local legislatures the power not to go so far as to openly and grossly violate, but even to "affect" rights and privileges in connection with matters which, being matters of conscience, are of so delicate and respectable character. (Debats sur la Confédération, pages 18, 146, 383, 437, 851, 884, 885, 1020 and 1021.)

Any right.—The Act does not say generally "the rights," which might indicate that those rights should be considered as a whole and as resulting generally from some existing educational system; the reference to "any right" clearly conveys a particular sense covering any particular right.

But the question has been asked, what is a right?

Bouvier's, Wharton's, and other dictionaries may be quoted in order to prove, in the words of a well-known authority, that "where a right exists, a means must exist to vindicate and maintain it," and that "want of right and want of remedy are reciprocal." Going further, it may be argued, as an application to the present case, that, as prior to the Union, there existed in Manitoba no educational law, and consequently no legal remedy to enforce and vindicate educational rights, then such as might be so called educational rights were, in fact, no rights at all.

In order to answer this objection, a distinction must be made. The sub-clause now under consideration mentions two kinds of rights: 1st. rights by law, and 2nd. by practice.

1st. The quotations above referred to are all taken from law dictionaries, and only apply to rights by law. There having been before the Union no educational law, it must here be admitted that there then existed no legal means of maintaining such as are here called educational rights, although there was surely at least, under the laws and regulations of Assiniboia concerning public peace and order, a remedy to vindicate and punish a violation of most of those rights.

2nd. But, which is more important, the statute also uses the words "rights by practice," and to these the definitions given by dictionaries of law terms should not apply. It is submitted that where "practice" is so recognized by statute, it would be unreasonable to expect that a special sanction should have been provided by law at a time when the statute clearly infers there was no law.

But the question may fairly be put: What is a right held by practice, or right by practice?

The admission is here made that the connection between the words "right" and "practice" does not fully satisfy the mind. Although there is nothing repugnant between them, yet those terms, as connected, do not perhaps exactly fit each other.

But what is to be the conclusion? Is it that those words have absolutely no meaning, and must be necessarily taken as non-operative?

It is here submitted that, unless the only conclusion to be arrived at is manifestly absurd, each word of a statute should be credited with some meaning and

supposed to have some effect. If one cannot gather from the law a meaning fully satisfactory to the exigencies of a strictly trained legal mind, the next best thing should be looked for, and this should be good enough for practical purposes if it be not repugnant to common sense.

Now, it is not repugnant to common sense to admit the interpretation which naturally suggests itself, *i.e.*, that the Act recognizes as a source or fountain of rights, or elevates to the dignity of rights as we now conceive them, those constant methods of administration and those particular relations and dealings between the members of a community, which went to form a constant usage or custom or practice at a time when, in this respect, there was practically no law in the land.

It may be disputed that such rights by practice as the statute contemplates, existed in Manitoba prior to Union; but it cannot be said generally that "rights by practice" mean nothing, when the statute, using such words, evidently recognizes such rights.

Or Privilege.—This word implies an immunity or exemption. The same objections may be raised here as to the want of legal immunity in connection with privileges by practice, as were raised as to the want of legal remedy in connection with rights by practice. The answer given above would here again apply.

With respect to.—Not "any right to denominational schools" which might indicate that this right would be sufficiently protected if the general principles of denominational schools were respected; but "any right with respect to denominational schools," showing that it was intended to shield not only the rights attaching to the essential principles of denominational schools, but even those rights which are more remotely connected therewith, and the suppression of which would not necessarily entail the destruction of the system itself.

To Denominational Schools.—To what extent denominational schools existed in Assiniboia is shown further on. It may, however, be at once pointed out that a school where no denominational teaching is given would not be a denominational school.

Which any class of persons.—These classes are also further on enumerated.

Have by law.—If this last word has to be taken in the meaning of written law, no special claim is laid thereunder in this memorial. If to be taken as covering usage or custom, it shall be sufficient to consider the word "practice" following, which is much wider.

Or Practice.—"Law or practice" are words seldom used in legal phraseology. The usual terms are "written or unwritten law," "law or custom," "law or usage." The departure here made from the usual terms "custom" and "usage," and the adoption of the rather unusual word "practice," would then seem to indicate that this last term should be interpreted in its strict sense in opposition to "custom."

"Custom," of course, is a certain practice, but a practice receiving, upon certain conditions, some recognition by the law. Such are the customs and usages of certain trades in certain parts of England, "Practice," on the contrary, by itself implies no idea of law or of recognition by the law; merely results from the assemblage of certain usual facts as facts; and in this sense it should be considered.

That the word "practice" was introduced in this sub-clause, not a *majore cautela*, but in order to cover and recognize the well-known state of things as existed prior to Union in Assiniboia, is shewn:—

a. By the fact that in all the Acts (except the Manitoba Act) providing after 1867 for the entry of new provinces into Confederation, sub-clause 1 of clause 93 of the British North America Act, (wherefrom the word "practice" is omitted) is declared to be applicable to such Provinces; whilst in the case of the Manitoba Act, and in this case only, the said sub-clause has been amended by the addition of the word "practice." Why was not this word also made to apply to the British Columbia and Prince Edward Island Acts, both passed after the Manitoba Act?

b. By the fact that all those portions of British North America (except Manitoba) which now form the Dominion having been provinces before their entry, had regularly organized Legislatures having the power to legislate in full measure;

whilst Manitoba, not being a Province before its union, could pass no law in the same sense as the other Provinces, and in fact only passed such laws as amounted to mere regulations of police, general protection and public order. When the circumstances of Manitoba before its union were so different from those of the other Provinces before their union, how could the same enactment have been used? And when a different enactment is made, fitting exactly, (as the word "practice") such particular circumstances, how can it be said that such enactment should not be taken in the precise and strict sense making it so specially applicable?

c. By the New Brunswick Schools case.

Although the legal struggle in connection with this case only commenced in 1872, the objectionable features of the question were well known at the time of the passing of the Manitoba Act. The Common Schools Act which was passed in 1871 and gave rise to the troubles, was a first time introduced in the New Brunswick Legislature in 1869, and again in 1870, and defeated on both occasions. (Journals New Brunswick Legislature, April, 1869, and February, 1870.)

As far back as 1869 the question created very considerable agitation. (Sessional Papers of Canada, Vol. x, No. 9, 1877, page 360, par. 3, and page 363, par. 1.)

Now, upon what did the whole question hinge?

The Sessional Papers quoted fully answer this question.

"The Act complained of (The Common Schools Act, 1871,) is an Act relating to common schools, and the Acts repealed by it apply to parish, grammar, superior and common schools. No reference is made in them to separate, dissentient or denominational schools, and the undersigned does not, on examination, find that any statute of the Province exists establishing such special schools." (Report of Minister of Justice, 361.)

"In order to render any law of a Provincial Legislature inoperative under the 1st sub-section of section 93, it is requisite that there should in such province have been at the Union denominational schools, with respect to which a certain class of persons had rights or privileges, and that those rights or privileges should have been secured by law.

"This would seem to lead at once to the consideration of the laws in force in New Brunswick at the Union, for the purpose of determining whether the Roman Catholics had by such laws any rights or privileges with respect to denominational schools. (Memo. of Executive Council of New Brunswick, page 377.)

"Inasmuch, then, as in New Brunswick at the Union, and at the time of the passing of 'The Common Schools Act, 1871,' the Roman Catholics had by law no rights or privileges with respect to denominational schools; nothing in the Common Schools Act can have deprived them of rights or privileges which they did not previously enjoy.

"It is stated that under the school law in force at the Union and up to the passing of 'The Common Schools Act, 1871,' the Catholics were enabled, whenever their numbers were sufficiently large, to establish schools in which a good religious and secular education was afforded.

"No such right existed 'under the law;' nothing in 'The Parish Schools Act of 1858' prevented the establishment of private schools outside of the law, as nothing in 'The Common Schools Act, 1871,' prevents the establishment of similar schools. An irregular and defective administration of the law might tolerate illegal practices, and allow parties to derive unwarrantable advantages in violation of the law; but privileges enjoyed in violation of the law cannot give rights under the law." (*Idem*, page 385.)

"We have now to determine whether any class of persons had, by law in this Province, any right or privilege with respect to denominational schools at the Union which are prejudicially affected by 'The Common Schools Act, 1871.' This renders it necessary that we should, with accuracy and precision, ascertain exactly what the state of the law was with reference to denominational schools....." (Judgment of Supreme Court of New Brunswick, page 411.)

“‘The Parish Schools Act, 1858,’ clearly contemplated the establishment throughout the province of public common schools for the benefit of the inhabitants of the Province generally; and it cannot, we think, be disputed, that the governing bodies under the Act were not in any one respect or particular denominational.” (*Idem*, page 411.)

“The schools established under this (Act 1858) were then public, parish or district schools, not belonging to or under the control of any particular denomination, neither had any class of persons nor any denomination—whether Protestant or Catholic—any rights or privileges in the government or control of the schools and did not belong to every other class or denomination, in fact, to every other inhabitant of the parish or district; neither had any one class of persons or denomination, nor any individual, any right or privilege to have any peculiar religious doctrines or tenets exclusively taught, or taught at all in any such school. What is there, then, in this Act, to make a school established under it a denominational school, or to give it a denominational character?” (*Idem*, page 415.)

“The simple question for solution is, does ‘The Common Schools Act, 1871,’ prejudicially affect any right or privilege with respect to denominational schools which any class of persons had by law in the Province at the Union.” (*Idem*, page 422.)

There were denominational schools in existence at the Union, such as the Varley School in St. John, the Sackville Academy, the Madras School, and the like; but they are not touched by the Common Schools Act, 1871; they remain in the enjoyment of all the rights they had at the Union.” (*Idem*, page 423.)

The New Brunswick case may then be summed up as follows:—

1. There existed by law in New Brunswick, prior to the Union, certain denominational academies; but the Common Schools Act, 1871, applying only to common schools did not affect such academies.

2. Although such existed by practice, no denominational common school existed by law in New Brunswick prior to Union, nor at any other time; so that the Common Schools Act, 1871, in providing that ‘all schools shall be non-sectarian’ only repeated in this—far from violating it—what had always been and was yet the law.

In one word, the claims of the Roman Catholics of New Brunswick fell short from the fact, that the British North America Act does not recognize “practice prior to Union,” as a source of rights and privileges.

But this word “practice” has been inserted in the corresponding clause of the Manitoba Act, and it is submitted that it was so inserted, clearly in order to obviate difficulties similar to those of the New Brunswick case.

This comment of the word “practice,” closes the consideration on the first sub-section.

Sub-section 2.

The first discrepancy between this sub-section of the British North America Act, 1867, lies in the suppression in the former of the three first lines to be found in the latter.

Those three first lines read as follows:—

(3.) “Where, in any province a system of separate or dissentient schools exists by law at the Union, or is thereafter established by the Legislature of the Province.”

The British North America Act having to provide in a general clause, for the different circumstances of the Provinces which were then entering and might later on, enter Confederation, very properly used the alternate proposition: “where—or where,”—But, in the Manitoba Act, providing for the immediate entry of one Province, the past circumstances of which were either one way or the other, it is clear that the same form of an alternative proposition could not logically be used.

But the question then arises: Does the absence of some other form of alternative proposition in sub-clause 2 of the Manitoba Act debar the citizens thereof from appealing to His Excellency in Council, on the one hand upon grounds of rights existing by law or practice before the Union, and on the other hand upon grounds of rights resulting from Legislative Acts passed thereafter?

The answer here submitted is in the negative.

The Manitoba Act provides for an appeal from "any Act or decision affecting any right or privilege" in the widest possible terms.

Again, by the British North America Act all the Provinces (whether originally or subsequently incorporated to Confederation) enjoy this most essential right of an appeal from any act or decision affecting any right or privilege in connection with separate or dissentient schools established by the Legislature after the Union.

Manitoba would be the only Province debarred, in this respect, from this essential right of appeal. As an example: in the event of the local executive having arbitrarily administered and violated, say a year ago, the denominational Schools Act of 1881, the Roman Catholic minority of Manitoba would have been the only minority in Confederation dobarred from an appeal under such circumstances.

This is repugnant, and more so, as the Manitoba Act was passed to extend and continue (and not to curtail in any sense, especially not in its general provisions) the British North America Act, 1867.

But more, sub-clause 2 of the Manitoba Act is more definite, much clearer, and perhaps stronger than the corresponding sub-clause of the British North America Act.

When the Roman Catholics of New Brunswick, under sub-clause 3 of the British North America Act, appealed to the Governor General in Council from the Common Schools Act, 1871, it was contended by the Executive Council of that Province (same Sess. Papers, page 387) that the words "from any Act or decision of any provincial authority" rather pointed to matters of administration, as, for instance, to the Acts or decisions of the Executive authority.

This point has never been settled; so that, in this respect the British North America Act is yet somewhat under a cloud.

But in the case of Manitoba care has been taken to dispel such ambiguity, and certain words have been added to sub-clause 2 of the Manitoba Act, which reads: "from any Act or decision of the Legislature of the Province or of any provincial authority."

It is most remarkable indeed, that, according to the reports of the case, but two slight additions to clause 93 of the British North America Act (being "practice" in paragraph one, and of the "Legislature of the Province" in sub-clause 3) should have been needed to make the pretensions of the Roman Catholics of New Brunswick admittedly unassailable on all grounds,—and that the addition of these very words in the Manitoba Act are the only discrepancies between this Act and the British North America Act.

Sub-section 3.

Nothing shall be said of this sub-section, only that it seems to have been intended as a sub-division of sub-clause 2.

Before closing these considerations upon this part of the law, it may be well, in order to show in what spirit the same was enacted by the Imperial Parliament, to quote the words pronounced by the Earl of Carnarvon in the House of Lords (19th February, 1867) when the educational clause of the British North America Bill was under discussion.

His Lordship says :

"Lastly, in the 93rd clause, which contains the exceptional provisions to which I referred, Your Lordships will observe some rather complicated arrangements in reference to education. I need hardly say that that great question gave rise to nearly as much earnestness and division of opinion on that as on this side of the Atlantic. This clause has been framed after long and anxious controversy, in which all parties have been represented, and on conditions to which all have given their consent. It is an understanding which, as it only concerns the local interests affected, is not one that Parliament would be willing to disturb, even if, in the opinion of the Parliament, it were susceptible of amendment; but I am bound to add, as the expression of my opinion, that the terms of the agreement appear to me to be equitable and

judicious. For the object of the clause is to secure the religious minority of one Province the same rights, privileges and protection which a religious minority of another Province may enjoy. The Roman Catholic minority of Upper Canada, the Protestant minority of Lower Canada, and the Roman Catholic minority of the Maritime Provinces, will thus stand on a footing of entire equality. But, in the event of any wrong at the hands of the local majority, the minority have a right to appeal to the Governor General in Council, and may claim the application of any remedial laws that may be necessary from the Central Parliament of the Confederation."

Having then endeavoured to show that any Act violating such rights as may have been consecrated by practice prior to the Union would be null, and that any Act violating such rights and privileges as may have been established or recognized by laws after the Union would be subject to an appeal to the Governor General in Council, it is now proper to ascertain,—

1st. What was the practice followed prior to Union? 2nd. What Acts have been passed after Union; and what rights and privileges may have resulted from such practice and such Acts?

PRACTICE PRIOR TO UNION AND RIGHTS AND PRIVILEGES THEREUNDER.

The correspondence of Monseigneur Provencher and Monseigneur Taché, Bishops of St. Boniface, will illustrate the condition of education in the Red River settlement long before the Union.

As far back as 1819, Mr. (since Bishop) Provencher opened at St. Boniface a school, where catechism and reading were taught, and the following year, latin elements were added to the curriculum.

On the 2nd day of July, 1825, the chief factors of the Hudson Bay Company assembled in council at York Factory, passed the following resolution:—

"Great benefit being experienced from the benevolent and indefatigable exertions of the Catholic mission at Red River, in promoting the welfare and moral and religious instruction of its numerous followers; and it being observed, with much satisfaction, that the influence of the mission, under the direction of the Right Reverend Bishop of Inliopolis, has been uniformly directed to the best interest of the settlement and of the country at large, it is resolved: That, in order to mark our approbation of such laudable and disinterested conduct on the part of the said mission, it be recommended to the Honourable Committee that a sum of £50 per annum be given towards its support, &c., &c."

In 1829 a school for girls was established at St. Boniface.

In 1838 an industrial school, conducted by experts from Quebec, and where sewing, knitting and weaving specially were taught, was also established at St. Boniface.

The arrival of the Sisters of Charity in 1844 marks the beginning of more improved schools for girls in the colony.

The actual College of St. Boniface and Ladies' Academy were also founded long before the Union. But it is better to invoke upon this matter the authority of public documents, and the following quotations were taken from a narrative of the Canadian Red River Expedition of 1857 and the Assiniboine and Saskatchewan exploring expedition of 1858, by Henry Youle Hind, M.A., F.R.G.S., Professor of Chemistry and Geology in the University of Trinity College, Toronto, (London: Longman, Green, Longman and Brothers, 1860.)

The expedition was organized and despatched by the Canadian Government, and the report was of course made officially.

Under the title "The Mission at Red River" chapter 9 of the "Narrative" begins thus:—

"There are three denominations in Assinibioia—Church of England, Presbyterian and Roman Catholic."

Further (page 194) it says:—

"In 1856 the census, according to religion, stood thus: Roman Catholic, 534 families, 3 churches; Episcopalian, 488 families, 4 churches; Presbyterians, 60 families and 2 churches."

It will be found important later on to quote the following from pages 208 and 209:—

"There is a distinct and well-preserved difference in faith between the populations of the different parishes into which the settlement is divided. Some are almost exclusively Protestant, others equally Roman Catholic. In the Parish of St. Norbert there is not one Protestant family, but 101 Roman Catholic families. In the Parish of St. Boniface there are 178 Roman Catholic families and 5 Protestant; so, also, in the Parish of St. François Xavier, on the Assiniboine, there are 175 Roman Catholic to 3 Protestant families. On the other hand, in the Parish of St. Peter, there are 116 Protestant and 2 Roman Catholic families; and in the Parishes of Upper and Lower St. Andrews there are 206 Protestant and 8 Roman Catholic families."

Under the heading "Education in the Settlement," and sub-heading, "Condition of Education at Red River," chap. 10 begins thus:—

"Education is in a far more advanced state in the colony than its isolation and brief career might claim for it under the peculiar circumstances in which the country has been so long placed. There are seventeen schools in the settlement, generally under the supervision of the ministers of the denomination to which they belong."

Further on, page 215:

"The Roman Catholic Schools are three in number, one of them occupying a very spacious and imposing building near the Church of Saint Boniface, and providing ample accommodation for female boarders.

"All the foregoing establishments are independent of the Sunday schools, properly so-called, in connection with the different churches."

Speaking of the Church of England schools, and quoting from a letter from His Lordship the Bishop of Rupert's Land, the report adds (pages 216, 218 and 219):—

"Within these boundaries the schools connected with the Church of England are thirteen. The thirteen are exclusive of the two higher academies for young ladies and for boys. In the collegiate school many of the pupils make very good progress. The sources of income vary much. Ten out of the thirteen schools are connected with the Church Missionary Society. The model training master is entirely paid by them, and also the masters of the pure Indian schools. In the other schools about one-half may be paid by the society, sometimes less, and the rest made up by the parents of the children.

"The sum paid by parents is 15s. a year; where latin is taught, one pound. In some parishes they prefer to pay the pound, or 30s. a family, and to send as many as they choose for that sum."

"The parochial school connected with my own church is equal to most parochial schools which I have known in England."

No. 5.

ST. BONIFACE, MAN., 31st October, 1890.

SIR,—I have the honour to respectfully submit to you the following:—

On the 24th of June last, a general convention of delegates from the French Canadian settlements of the Province, was held at the town of St. Boniface, with the Honourable Senator M. A. Girard as chairman and the undersigned as secretary.

Several resolutions were passed by the said convention, amongst others, one protesting against the passing by the Legislature of Manitoba, of 53 Victoria, chapter 14; another for the presenting to his Excellency in Council of a petition

asking for redress in the matter; a third, instructing a special committee to draft such petition, and a fourth, authorizing the chairman and secretary to sign their names to the same for the convention.

Acting under such instructions, the said committee has prepared the said petition, and the said chairman and secretary have subscribed their names thereto.

I now have the honour to transmit to you, herewith enclosed, the said petition, and to respectfully request you to submit the same to the consideration of his Excellency in Council.

I have the honour to be, sir,
Your obedient servant,

GEO. E. FORTIN, *Secretary.*

French Canadian Convention of Manitoba, 1890.

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

To His Excellency the Governor General of Canada, in Council.

The Petition of Her Gracious Majesty's subjects of French origin in the Province of Manitoba, humbly sheweth.

That the Seventh Legislature of the Province of Manitoba in its third Session assembled, has passed (amongst others) an Act being fifty three Victoria, chapter fourteen, intituled "An Act to provide that the English language shall be the official language of the Province of Manitoba;"

That the said Act,—by providing in the first section that "any statute or law to the contrary notwithstanding, the English language only shall be used in the records and journals of the House of Assembly for the Province of Manitoba, and in any pleadings or process in or issuing from any court in the Province of Manitoba," and that "the Acts of the Legislature of the Province of Manitoba need only be printed and published in the English language,"—virtually provides for the abolition of the French language as an official language in the said Legislature and in the said courts;

That the said Act is most vexatious to Her Majesty's subjects of French origin settled in Manitoba, inasmuch as its object is to deprive them of rights and privileges which they have uninterruptedly enjoyed and exercised ever since the entry of the country into the Union;

That the said Act constitutes a gross violation of the solemn pledges which were given to the French speaking population of Assiniboia at the time of its entry into Confederation, and as such is contrary to the policy of Your Excellency's Government; and

That the said Act—as is more fully set forth in the memorandum hereto annexed, is a flagrant violation of "The British North America Act, 1867," of "The Manitoba Act" and of "The British North America Act, 1871," and is as such *ultra vires* of the Legislature of Manitoba.

Your petitioners therefore pray:

That Your Excellency in Council may be pleased to disallow the said Act, and to take such further action and grant such other relief as to your Excellency in Council may seem meet and just. And your petitioners will ever pray.

The French Canadian Convention of Manitoba, 1890, by

M. A. GIRARD, Sr., *Chairman.*

GEO. E. FORTIN, *Secretary.*

Memorandum.

The Petition to His Excellency in Council, in connection with the passing of 53 Victoria, Chapter 14 (Manitoba), is based upon section 23 of 33 Victoria, Chapter 3 (Canada), better known as "The Manitoba Act," which Section 23 reads as follows:—

23. "Either the English or the French language may be used by any person in the Debates of the Houses of the Legislature, and both these languages shall be used in the respective records and journals of those Houses; and either of those languages may be used by any person, in any pleading or process, in or issuing from any Court of Canada, established under the British North America Act, 1867, or in or from all or any of the Courts of the Province; the Acts of the Legislature shall be printed and published in both those languages."

But whereas the Manitoba Act has been passed for the purpose of continuing the British North America Act of 1867; and whereas certain portions of the former can only be properly interpreted under the light of a comparison with corresponding portions of the latter; and whereas the British North America Act, 1867, contains a section practically identical with said Section 23 of the Manitoba Act; and whereas the laying down of the general principles upon which Confederation now rests was naturally attended with more anxiety and elicited a more complete and more solemn expression of the intention of Parliament than the passing of subsequent Acts admitting new Provinces in the Union—it is thought proper for these reasons to first ascertain the exact bearing of the British North America Act, 1867, upon the question of dual languages.

Section 133 of the British North America Act, 1867, is in the following terms:—

133. "Either the English or the French language may be used by any person in the debates of the Houses of the Parliament of Canada and of the Legislature of Quebec; and both those languages shall be used in the respective records or journals of those Houses; and either of those languages may be used by any person in any pleading or process in or issuing from any Court of Canada established under this Act, and in or from all or any of the Courts of Quebec.

"The Acts of the Parliament of Canada and of the Legislature of Quebec shall be printed and published in both languages."

That the sense which naturally attaches to the above clause and in which it has hitherto always been interpreted, answers strictly to the interpretation which preceded to the enacting thereof is fully shown by the Debates on Confederation.

The first declaration on the subject seems to have been provoked by Hon. Mr. Evanturel, who (page 943 Debates on Confederation) said:

"I wish to put a question to the Government. I acknowledge that if I confined myself to consulting my own ideas, I should not put this question; but I do so in order to meet the wishes of several of my friends both within this House and beyond its precincts. Those friends have expressed alarm in relation to one of the clauses of the resolutions, and have requested me to ask an explanation from the Hon. Attorney-General for Upper Canada as to the interpretation of that clause. I have therefore to ask him whether article 46 of the resolutions, which states that both the English and French languages may be employed in the general Parliament and its proceedings and in the Local Legislature of Lower Canada, is to be interpreted as *placing the use of the two languages on an equal footing* in the Federal Parliament. In stating the apprehensions entertained by certain persons on this subject—and I consider that it is a mark of patriotism on their part and that their apprehensions may be legitimate—I hope the Government will not impute to me any hostile intention, and will perceive that the course I adopt is in their interest as it will give them an opportunity of dissipating the apprehension in question. (Hear, hear.)

To this, Hon. Attorney-General (now Sir) John A. Macdonald, answers as follows:—

"I have very great pleasure in answering the question put to me by my hon. friend for the County of Quebec. I may state that the meaning of one of the resolutions adopted by the Conference is this: that the rights of the French Canadian members as to the status of their language in the Federal Legislature should be 'precisely the same as they now are in the Provincial Legislature of Canada, in every possible respect.' I have still further pleasure in stating that the moment

this was mentioned in Conference, the members of the deputation from the Lower Provinces unanimously stated that it was right and just, and without one dissentient voice gave their adhesion to the reasonableness of the proposition that the status of the French language as regards '*the procedure in Parliament, the printing of measures and everything of that kind*' should be precisely the same as it is in this Legislature."

But, however strong these declarations may appear, they do not imply any guarantee as to the future. True, the Union Act which provided at first that the English language should be the sole official language was amended by 11 and 12 Victoria (Imp.) declaring that French also should be an official language; but there was nothing in this amendment to make its object indefeasible, and the use of the French language, although introduced, was yet as to its continuancy, left to the will of the majority."

It was in this sense that the Hon. (now Sir) A. A. Dorion made the following objection:

"If to-morrow this legislature chooses to vote that no other but the English language should be used in our proceedings, it might do so and thereby forbid the use of the French language. There is therefore no guarantee for the continuance of the use of the language of the majority of the people of Lower Canada but the will and forbearance of the majority of Parliament. And as the number of French members in the general legislature under the proposed Confederation will be proportionately much smaller than it is in the present legislature, this ought to make hon. members consider what little chance there is for the continued use of their language in the Federal Legislature. This is the only observation I have to make on this subject, and it was suggested to me by the answer of hon. Attorney General."

Hon. (now Sir) John A. Macdonald answered this objection in the following terms:—

"I desire to say that I agree with my honourable friend that as it stands just now, the majority governs; *but in order to cure this*, it was agreed at the Conference to embody the provision in the Imperial Act (hear, hear). This is proposed by the Canadian Government for fear an accident might arise subsequently: and it was assented to by the deputation for each province that the use of the French language should form "*one of the principles upon which the Confederation would be established*," and that its use as at present should be guaranteed by the Imperial Act (hear, hear)."

The above having more special reference to the status of the two languages in the Federal Parliament, Hon. Attorney General (subsequently Sir) George Etienne Cartier, then made definite the interpretation of the same clause as to the use of the minority's language in the future legislature of Quebec, in these words:—

"I will add, that it was also necessary to protect the English minority in Lower Canada with respect to the use of their language, because in the local parliament of Lower Canada, the majority will be composed of French Canadians. The members of the Conference were desirous that it should not be in the power of that majority to decree the abolition of the English language in the local legislature of Lower Canada, 'any more than it will be in the power of the Federal Legislature to do so with respect to the use of the French language.' I will also add that the use of both languages will be secured in the Imperial Act to be founded on the resolutions."

Three conclusions must necessarily follow the above premises:—

1. That the English language and the French language were both declared official languages for and in the Legislature and the courts of the Province of Quebec, as well as in and for the Parliament of Canada.

2. That the abolition of either of these languages as official languages, is not within the powers of the legislature of Quebec; or, in the words of Sir George E. Cartier, that "it would not be in the power of the majority to decree the abolition of the English language."

3 That this privilege of the minority should not receive a narrow interpretation; but rather, as Mr. Evanturel says "as placing the use of the two languages on an equal footing;" or, in the words of Sir John A. Macdonald, as applying "to the procedure in parliament, the printing of measures and everything of that kind."

Section 133 of the British North America Act, 1867, and section 23 of the Manitoba Act being practically identical, the above three conclusions are also invoked in the present case, upon the ground that the same interpretation should attach to similar enactments.

It may however be contended that mere declarations of the intention of the legislature, as the above, cannot stand in the face of positive enactments to the effect contrary; and upon that ground, section 92 of the British North America Act, 1867, has been invoked as empowering provincial legislatures generally to amend their constitution, and the legislature of Quebec particularly to abolish either of its official languages.

True, section 92 of the British North America Act empowers provincial legislatures to amend "the constitution of the Province."

But these last words should be taken as a clear reference to the heading, and the whole of the fifth division of the Act, being "*V. Provincial Constitutions*," upon the grounds of that sound rule of interpretation, that all matters contained in a chapter or division are properly and sufficiently referred to by quoting the heading or title of such division or chapter.

This seems to be supported by the fact: That in all this division "V" of the British North America Act, 1867, not a single matter nor a single clause is to be found which it is not clearly in the power of provincial legislatures to amend (unless, of course, therein expressly reserved),—whilst, on the other hand, leaving out this division "V," not one single clause is to be found in the Act, which provincial legislatures can claim power to amend (unless of course that power be therein expressly conferred).

It is then submitted as a general conclusion:—

1. That under the British North America Act, 1867, provincial legislatures are empowered to amend only those clauses which are enumerated in, and form part of division "V" of the Act;

2. That as clause 133 (the dual language clause) is not contained in and does not form part of said division "V," it is not within the powers of the Legislature of Quebec to repeal nor amend the same. (Dwarris, Maxwell, Hardcastle, Headings, &c.)

It is moreover submitted as applying specially to the present case.

1. That section 92 of the British North America Act, 1867, whilst applying to the Provincial Legislature of Manitoba, only does so in the restricted sense herein above specified;

2. That section 23 of the Manitoba Act should be read as if it were inserted in the British North America Act, 1867, in the place of, or alongside with, section 133 of the said Act, and subject to the same reservations.

It is moreover submitted that the repealing powers of the Legislature of Manitoba in connection with official languages are restricted not only by the British North America Act, 1867, as herein above stated, but also by 34-35 Victoria, chapter 28 (Imp.), better known as "The British North America Act, 1871," section 6 of which is in the following terms:—

"Except as provided by the third section of this Act, it shall not be competent for the Parliament of Canada to alter the provisions of the last mentioned Act (the Manitoba Act); subject always to the right of the Legislature of the Province of Manitoba to alter from time to time the provisions of any law respecting "*the qualification of electors and members of the Legislative Assembly, and to make laws respecting elections in the said Province.*"

These last words seem to indicate to what extent the Legislature of Manitoba has power to amend the Manitoba Act.

NO. 6.

(Translation.)

MONTREAL, March 23rd, 1891.

SIR,—I beg to enclose a petition signed by Catholic Episcopate of the Dominion of Canada, and pray that you will transmit the same to His Excellency the Governor General in Council.

I am confident that you will give your full support to this petition and commend it to your honourable colleagues when presenting it to them.

Several of the venerable prelates, whose signature is affixed to this petition, not being able to sign themselves, have authorized certain of their brethren in the Episcopate to do so for them, as you will see from the papers hereunto annexed marked: A, B, C, D, E, F, G, H, I.

Your obedient servant,

ALEX., Archbishop of St. Boniface, O.M.I.

Hon. J. A. CHAPLEAU,
Secretary of State, Ottawa.

A.

(Telegram.)

BELLEVILLE, ONT., March 23, 1891.

His Grace Archbishop TACHÉ, St. Mathew Street, Montreal.

Have not seen document, you may however attach my name.

J. FARRELLY.

B.

MONTREAL, March 16th, 1891.

I hereby certify that, by special authority from their Lordships the Right Reverend Monseigneur Grandin, Bishop of St. Albert, and Monseigneur Isidore Clut, Bishop of Arindèle, I have affixed their signatures to the petition addressed to His Excellency the Governor General in Council *re* Manitoba Catholic Schools, &c.

ALEX., Archbishop of St. Boniface, O.M.I.

C.

ARCHBISHOP'S HOUSE, HALIFAX, N.S., 17th March, 1891.

I hereby certify that by special authority from Their Lordships the Bishops of St. John, Charlottetown, Antigonish and Irina, I have this day affixed their signatures to the Petition of His Grace Archbishop Taché to His Excellency the Governor General in Council.

C. O'BRIEN, *Archbishop of Halifax.*

D.

(Telegram.)

NEW WESTMINSTER, B.C., 15th March, 1891.

To Rev. Archbishop TACHÉ,
General Hospital, Montreal.

Consenting to sign.

* * * * * BISHOP DUREU.

E.

(Copy.)

VICTORIA, B.C., 11th March, 1891.

To Archbishop TACHÉ,
General Hospital, St. Matthew Street, Montreal.

I willingly give my name to petition.

J. N. LEMMENS.

To His Excellency the Governor General in Council :

The petition of the Cardinal Archbishop of Quebec and of the Archbishops and Bishops of the Roman Catholic Church in the Dominion of Canada, subjects of Her Gracious Majesty the Queen,

Humbly sheweth; That the seventh legislature of the Province of Manitoba, in its third session assembled, has passed an Act intituled: "An Act respecting the Department of Education" and another Act to be cited "The Public School Act," which deprive the Roman Catholic minority of the province of the rights and privileges they enjoyed with regard to education;

That during the same session of the same Parliament there was passed another Act, being fifty-three Victoria, chap. xiv, to the effect of abolishing the official use of the French language in the Parliament and Courts of Justice of the said Province;

That the said laws are contrary to the dearest interests of a large portion of the loyal subjects of Her Majesty;

That the said laws cannot fail to grieve and in fact do afflict at least the half of the devoted subjects of Her Majesty in Her Domains of Canada;

That the said laws are contrary to the assurances given, in the name of Her Majesty, to the population of Manitoba, during the negotiations which determined the entry of the said Province into Confederation;

That the said laws are a flagrant violation of the British North America Act, 1867, and of the Manitoba Act, 1870, and of the British North America Act, 1871; that your petitioners are justly alarmed at the disadvantages and even the dangers which would be the result of a legislation forcing on its victims the conviction that public good faith is violated with them, and that advantage is taken of their numerical weakness, to strike at the constitution under which they are so happy to live.

Therefore, your petitioners humbly pray Your Excellency in Council to afford a remedy to the pernicious legislation above mentioned, and that in the most efficacious and just way.

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

MONTREAL, 6th March, 1891.

E. A. Card. TASCHEREAU, Arch. of Quebec;	(d) PAUL DURIEU, O. M. I., Bishop of New Westminster;
ALEX., Arch. of St. Boniface, O. M. I.;	L. Z., Bishop of St. Hyacinthe;
C. O'BRIEN, Arch. of Halifax;	N. ZÉPHIRIN, Bishop of Cythère, Vic. Apost. of Pontiac;
EDOUARD CH., Arch. of Montreal;	ELPHÈGE, Bishop of Nicolet;
J. THOMAS, Arch. of Ottawa;	THOMAS JOSEPH DOWLING, Bishop of Hamilton;
JOHN WALSH, Arch. of Toronto;	(e) J. N. LEMMENS, Bp of Vancouver;
(a) J. FARRELLY, Administrator, Diocese of Kingston;	(f) RICHARD A. O'CONNOR, Bp. of Peterboro';
JEAN, Arch. of Leontopolis;	ANDRÉ ALBERT, Bp. of St. Germain de Rimouski;
(b) VITAL, J., Bishop of St. Albert;	(g) ALEXANDER MACDONELL, Bishop of Alexandria;
(c) JOHN SWEENEY, Bishop of St. John;	(c) J. C. McDONALD, Tit. Bp. of Irina;
(c) PETER MCINTYRE, Bishop of Charlottetown;	(h) DENNIS O'CONNOR, Bp. of London;
(b) ISIDORE CLUT, O. M. I., Bishop of d'Arindèle;	(i) N. DOUCET, Pte., V.G., Prot. Apost. Administrator of the Diocese of Chicoutimi, during the absence of Mgr. Bégin, in Europe.
L. F., Bishop of Three Rivers;	
T. O'MAHONY, Bishop of Eudocia;	
(c) J. CAMERON, Bishop of Antigonish;	
ANTOINE, Bishop of Sherbrooke;	

(Translation.)

To His Excellency the Governor General in Council;—The Petition of the Cardinal Archbishop of Quebec, and the Archbishops and Bishops of the Roman Catholic Church of the Dominion of Canada, subjects of Her Gracious Majesty the Queen; Respectfully sheweth:

That, in the Third Session of the Seventh Parliament of the Province of Manitoba, a Statute was enacted, intituled "An Act respecting the Department of Education," and another, intituled "The Public Schools Act," which said enactments deprive the Roman Catholic minority of the said Province of the rights and advantages which they formerly enjoyed in the matter of education;

That, in the same Session of the same Parliament, another Statute was enacted, being the Act 53 Victoria, chapter 14, for the purpose of abolishing the official use of the French language in the Parliament and the Courts of Justice of the said Province.

That these enactments are opposed to the interests of a considerable portion of the loyal subjects of Her Majesty;

That the said enactments cannot fail to grieve, and do in fact grieve, at least one-half of the devoted subjects of Her Majesty throughout the Dominion of Canada;

That these enactments are contrary to the assurance given in the name of Her Majesty to the people of Manitoba at the time of the negotiations which led to the entry of that Province into Confederation;

That the aforementioned enactments are a flagrant violation of the British North America Act, 1867, of the Manitoba Act, 1870, and the British North America Act, 1871;

That your Petitioners are justly alarmed at the drawbacks and even dangers which may result from legislation which forces upon those who are its victims the sad conviction that there is a violation in their case of public good faith; and that advantage is taken of their numerical inferiority to violate the constitution, under the protection of which they think themselves fortunate to live;

Wherefore, your Petitioners pray Your Excellency in Council to remedy this most deplorable legislation by any means which you may deem most effective and most just.

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

No. 7.

ST. BONIFACE, MAN., 4th April, 1891.

HONOURABLE SIR,—At the request of the subscribers, I have the honour to forward to you, herewith enclosed, a petition signed by the members of French origin of the Legislature of this Province, praying for the disallowance of chapter 14, of 53 Victoria, of the Statutes of Manitoba; and to beg you to lay this petition before His Excellency the Governor General in Council, with the hope that the just request of the petitioners will receive the most favourable consideration possible on the part of His Excellency.

I have, &c.,

A. A. C. LARIVIÈRE.

Hon. J. A. CHAPLEAU,
Secretary of State, Ottawa.

To His Excellency the Right Honourable Sir FREDERICK ARTHUR STANLEY, Baron Stanley of Preston, in the County of Lancaster, in the Peerage of Great Britain, Knight Grand Cross of the Most Honourable Order of the Bath, Governor General and Vice-Admiral of Canada:

MAY IT PLEASE YOUR EXCELLENCY,—The petition of the members representing the French population in the Legislature of Manitoba, humbly sheweth:

1. Whereas the 23rd section of the Manitoba Act (1870), enacts as follows :—
 “ 23. Either the English or the French language may be used by any person in the debates of the Houses of the Legislature, and both those languages shall be used in the respective records and journals of those Houses ; and either of those languages may be used by any person, or in any pleading or process, in or issuing from any court of Canada, established under the British North America Act, 1867, or in or from all or any of the courts of the Province. The Acts of the Legislature shall be printed in both those languages.”

2. Whereas the French population of Manitoba has enjoyed the free exercise of the rights and privileges aforesaid for the space of eighteen years, until the year eighteen hundred and ninety, without hindrance from the various administrations which have governed the Province during that period ; and

Whereas the Act, chapter 14, of the Legislature of Manitoba, passed in the 53rd year of Her Majesty's Reign, and sanctioned by the Lieutenant-Governor on the 31st March, 1890, enacts the abolition of the official use of the French language in the debates of the Legislative Assembly and in the Courts of Justice ; and

Whereas in pursuance of the said chapter 14, neither the records nor the journals of the legislature, nor even the statutes of the said year 1890, have been printed in French, to the detriment of our fellow nationalists and to the prejudice of their constitutional rights, solemnly guaranteed both by the Parliament of the Dominion and by the Imperial Parliament itself ;

Wherefore, your petitioners pray Your Excellency to graciously use Your Excellency's Vice Regal prerogative and disallow the Act, chapter 14, of the said Statutes of Manitoba.

And your Petitioners will ever pray,

THOMAS GELLEY,
 M.P.P. for Cartier.
 WM. LAGIMODIÈRE,
 M.P.P. for La Verandrye.

A. F. MARTIN,
 M.P.P. for Morris.
 ROGER MARION,
 M.P.P. for St. Boniface.
 MARTIN JEROME,
 M.P.P. for Carillon.

RETURN

(54e)

To an ORDER of the HOUSE OF COMMONS, dated the 13th May, 1891 ;—For a Return of the Costs and Expenses of adjusting the amounts claimed for Fishery Bounties, and of preparing and distributing the Fishery Bounty Cheques, in each year since 1883 ; and also the names of the persons authorized to distribute the Bounty Cheques in the Province of Nova Scotia, during the years 1889, 1890 and 1891.

By order.

J. A. CHAPLEAU,

Secretary of State.

Fishery Bounties.

Year.	Amount.
	\$ cts.
1884	7,203 60
1885	8,136 47
1886	6,623 41
1887	6,348 56
1888	7,136 96
1889	6,050 21
1890	6,009 93

Names of Persons authorized to distribute Bounty Cheques in the Province of Nova Scotia, during the Years 1889, 1890 and 1891.

<p><i>Annapolis County.</i></p> <p>Aug. Fullerton, S. S. Ruggles, D. W. Landers, Charles Ditmars, W. Graves, C. A. Elliott, E. H. Porter, John Troop, Edgar McCormick.</p> <p><i>Antigonish County.</i></p> <p>John McDonald, Edward Corbet, E. G. Randall, A. Boyd.</p> <p><i>Colchester County.</i></p> <p>J. A. G. Campbell.</p> <p><i>Cape Breton County.</i></p> <p>R. McDonald, P. O. Toole, W. W. Bown, A. G. Hamilton, George Rigby, Patrick Collins, Charles H. Rigby, Roderick McLean, Francis Quinan, Y. A. W. Barrington, Joseph McNeil.</p> <p><i>Digby County.</i></p> <p>J. A. Collins, Wm. Hanley, J. V. Stuart, Isaiah Thurber, H. C. Perry, B. A. Robicheau, A. Bourneuf, S. Sanderson, Edward McKay, J. W. Cosseboom, Edward Doucette, N. B. Jones.</p>	<p><i>Guysboro' County.</i></p> <p>J. A. Tory, D. Murray, jun., J. W. Young, Allan McQuarrie, J. D. Giffin, James Hemlow.</p> <p><i>Halifax County.</i></p> <p>George Rowlings, W. C. Henley, M. McFarlane, Geo. A. Jamieson, W. D. Harrington, A. B. Crosby.</p> <p><i>Inverness County.</i></p> <p>J. C. Bourinot, James Coady, Severin Aucoin, D. F. McLean, H. A. Forbes.</p> <p><i>King's County.</i></p> <p>J. W. Thorpe, C. E. Morris, F. C. Rand, S. W. Rawding, J. E. Orpin, Edward Harris.</p> <p><i>Luncenburg County.</i></p> <p>H. S. Jost, H. N. Reinhardt, A. F. Zwicker, David Evans, W. R. Wentzel, Wm. M. Solomon, Joseph Wade.</p> <p><i>Pictou County.</i></p> <p>D. McDonald, D. McGregor, Allan McPhie, J. F. McDonald, D. G. McDonald.</p>	<p><i>Queen's County.</i></p> <p>E. E. Letson, J. H. Dunlap, S. T. N. Sellon, Thos. Day.</p> <p><i>Richmond County.</i></p> <p>Wm. Brymner, D. Urquhart, R. J. Sutherland, W. S. Boyd, P. LeLacheur, jun., W. R. Morrison, Edward Malcolm, James A. Shaw, Francis Marmeau, George Burke, George H. Bissett.</p> <p><i>Shelburne County.</i></p> <p>George Stalker, W. W. Atwood, W. J. McGill, J. W. Taylor, D. Sargent, E. S. Goudey, Seth Smith.</p> <p><i>Victoria County.</i></p> <p>D. McDonald, James Shea, D. McAulay, Wm. Bingham, M. McIntosh, L. G. Campbell, D. McRae, jun., Donald Campbell, Duncan McDonald, John McDonald.</p> <p><i>Yarmouth County.</i></p> <p>D. L. Porter, P. S. D'Entremont, G. H. Robertson, Enos Gardner, J. R. Kinney, R. S. Eakins.</p>
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RETURN

(57)

To an ORDER of the HOUSE OF COMMONS, dated the 5th May, 1891;—For a Return showing the quantities and kinds of timber and sawlogs cut annually in the lately Disputed Territory, in the Province of Ontario, under the authority of timber licenses issued by the Government of Canada; the names of such licensees; and showing also how the dues were imposed, and the amount per thousand feet, board measure, realized by the Government of Canada from each person or firm so licensed in each year from 1875 to 1887, inclusive; or what royalty or other revenue was received by the Government from licensees aforesaid on such quantities cut or sold.

By order.

GEORGE E. FOSTER,

for Secretary of State.

1875.

S. H. Fowler manufactured 240,500 feet, B.M., lumber, and 107,750 shingles, and sold the whole, upon which he paid 5 per cent. royalty on sales, amounting to \$299.47.

1876.

S. H. Fowler manufactured 258,453 feet, B.M., lumber, and 127,937 shingles, and sold the whole, upon which he paid 5 per cent. royalty on sales, amounting to \$291.32.

1877.

S. H. Fowler manufactured 298,359 feet, B.M., lumber, and 44,500 shingles, and sold the whole, upon which he paid 5 per cent. royalty on sales, amounting to \$212.67.

1878.

S. H. Fowler manufactured 86,113 feet, B.M., lumber, and 16,775 shingles, and sold the whole, upon which he paid 5 per cent. royalty on sales, amounting to \$111.81.

1879.

The Keewatin Lumbering and Manufacturing Company manufactured 67,628 feet, B.M., lumber, 30,000 shingles, 3,660 lineal feet poles, 40 cords wood, and sold 67,628 feet, B.M., lumber, 25,750 shingles, 3,660 lineal feet poles, and 40 cords wood, upon which they paid 5 per cent. royalty on sales, amounting to \$29.01.

S. H. Fowler manufactured 250,455 feet, B.M., lumber, 102,000 shingles, and sold the whole, upon which he paid 5 per cent. royalty on sales, amounting to \$228.43.

1880.

Keewatin Lumbering and Manufacturing Company manufactured 1,510,492 feet, B.M., lumber, 629,750 shingles, 28,850 laths, 2,300 lineal feet of poles, 22 cords wood,

and sold 999,590 feet, B.M., lumber, 199,250 shingles, 10,800 laths, 2,300 lineal feet of poles and 22 cords wood, upon which they paid 5 per cent. royalty on sales, amounting to \$1,012.91.

S. H. Fowler manufactured 505,055 feet, B.M., lumber, 93,000 shingles, and sold 465,055 feet, B.M., lumber, 93,000 shingles, upon which he paid 5 per cent. royalty on sales, amounting to \$339.28.

1881.

Keewatin Lumbering and Manufacturing Company manufactured 3,937,790 feet, B.M., lumber, 949,250 shingles, 97,050 laths, 98 poles and 28 cords wood, and sold 2,472,249 feet, B.M., lumber, 822,250 shingles, 49,250 laths, 98 poles and 28 cords wood, upon which they paid 5 per cent. royalty on sales, amounting to \$2,507.20.

1882.

Keewatin Lumbering and Manufacturing Company manufactured 7,648,339 feet, B.M., lumber, 2,561,000 shingles, 1,030,950 laths, 504 poles and 22 cords wood, and sold 6,916,693 feet, B.M., lumber, 2,061,500 shingles, 856,800 laths, 504 poles and 22 cords wood, upon which they paid 5 per cent. royalty on sales, amounting to \$8,314.28.

S. H. Fowler manufactured 576,992 feet, B.M., lumber, and sold 585,992 feet, B.M., upon which he paid 5 per cent. royalty on sales, amounting to \$351.59.

W. J. Macaulay manufactured 335,417 feet, B.M., lumber, and sold 155,643 feet, B.M., upon which he paid 5 per cent. royalty on sales, amounting to \$161.95.

Dick, Banning & Co., assignees of W. J. Macaulay, manufactured 990,263 feet, B.M., lumber, 74,850 laths, and sold 1,170,037 feet, B.M., lumber, 74,850 laths, upon which they paid 5 per cent. royalty on sales, amounting to \$1,331.26.

1883.

Keewatin Lumbering and Manufacturing Company manufactured 5,366,262 feet, B.M., lumber, 3,708,250 shingles, 1,702,000 laths, 50,000 poles, 297 cords wood, and sold 3,679,000 feet, B.M., lumber, 2,867,000 shingles, 877,000 laths, 5,276 poles and 297 cords wood, upon which they paid 5 per cent. royalty on sales, amounting to \$4,379.27.

Rainy Lake Lumber Company (assignees of S. H. Fowler), manufactured 2,050,335 feet, B.M., lumber, 359,000 shingles, 497,700 laths, and sold 554,283 feet, B.M., lumber, 340,000 shingles, 368,200 laths, upon which they paid 5 per cent. royalty on sales, amounting to \$529.65.

1884.

Keewatin Lumbering and Manufacturing Company manufactured 5,543,109 feet, B.M., lumber, 2,263,500 shingles, 1,569,700 laths, 222 cords wood, and sold 2,505,725 feet, B.M., lumber, 2,378,750 shingles, 1,385,700 laths, 222 cords wood, 10,704 poles, upon which they paid 5 per cent. royalty on sales, amounting to \$2,904.33.

Rainy Lake Lumber Company manufactured 6,542,399 feet, B.M., lumber, 1,080,000 shingles, 429,300 laths, and sold 3,309,264 feet, B.M., lumber, 323,250 shingles, 283,100 laths, upon which they paid 5 per cent. royalty on sales, amounting to \$2,428.11.

Dick, Banning & Co., manufactured 444,277 feet, B.M., lumber, 202,000 shingles, 111,000 laths, and sold the whole, upon which they paid 5 per cent. royalty on sales, amounting to \$472.93.

F. T. Bulmer & Company (assignees of H. H. Baily), manufactured 1,150,276 feet, B.M., lumber, 261,000 laths, and sold the whole, upon which they paid 5 per cent. royalty on sales, amounting to \$608.56.

1885.

Keewatin Lumbering and Manufacturing Company manufactured 2,781,266 feet, B.M., lumber, 1,183,000 shingles, 583,000 laths, 150 poles, 322 cords wood, and sold

3,581,764 feet, B.M., lumber, 1,437,000 shingles, 520,000 laths, 4,695 poles, and 322 cords wood, upon which they paid 5 per cent. royalty on sales, amounting to \$3,130.51.

Rainy Lake Lumber Company manufactured 253,276 feet, B.M., lumber, and sold 3,606,043 feet, B.M., lumber, 716,500 shingles, 215,650 laths, upon which they paid 5 per cent. royalty on sales, amounting to \$2,887.30.

Dick, Banning & Co. manufactured 1,854,000 feet, B.M., lumber, 1,116,500 shingles, 894,000 laths, and sold 300,000 feet, B.M., lumber, 500,000 shingles and 200,000 laths, upon which they paid 5 per cent. royalty on sales, amounting to \$295.30.

F. T. Bulmer & Co. (assignees of George F. Hartl), manufactured 2,837,369 feet, B.M., lumber, and sold the whole. The dues (5 per cent. royalty on sales), amounting to \$1,418.68, have not been collected, except \$20.97 paid on account.

1886.

Keewatin Lumbering and Manufacturing Company manufactured 2,415,683 feet, B.M., lumber, and sold 5,225,667 feet, B.M., lumber, 1,445,750 shingles, 761,800 laths, 5,756 poles, upon which they paid 5 per cent. royalty on sales, amounting to \$4,039.98.

Rainy Lake Lumber Company manufactured 3,388,190 feet, B.M., lumber, 5,550 laths, 10,887 railway ties, and sold 171,237 feet, B.M., lumber, 5,550 laths and 10,887 railway ties, upon which they paid 5 per cent. royalty on sales, amounting to \$259.07.

Dick, Banning & Co. manufactured 1,437,975 feet, B.M., lumber, 400,000 shingles, 375,000 laths, and sold 1,087,400 feet, B.M., lumber, 616,500 shingles, 375,000 laths, upon which they paid 5 per cent. royalty on sales, amounting to \$798.48.

1887.

Keewatin Lumbering and Manufacturing Company manufactured 1,746,607 feet, B.M., lumber, 3,349 poles, and sold 3,869,358 feet, B.M., lumber, 82,750 shingles, 550,200 laths, 23,116 poles, upon which they paid 5 per cent. royalty on sales, amounting to \$2,820.84.

Rainy Lake Lumber Company manufactured 5,042,086 feet, B.M., lumber, 1,149,500 shingles, 715,000 laths, and sold 5,689,268 feet, B.M., lumber, 640,250 shingles, 368,200 laths, upon which they paid 5 per cent. royalty on sales, amounting to \$4,049.07.

Dick, Banning & Co. manufactured 3,739,767 feet, B.M., lumber, 950,000 shingles, 825,000 laths, and sold 2,548,000 feet, B.M., lumber, 600,000 shingles, 525,000 laths, upon which they paid 5 per cent. royalty on sales, amounting to \$1,693.60.

NOTE.—The mill returns do not show the kind of timber manufactured into lumber, &c.

RETURN

(61)

To an ORDER of the HOUSE OF COMMONS, dated the 18th June, 1891;—For a copy of the Report of Collingwood Schreiber, Esq., upon survey made by him of the River St. Lawrence immediately opposite and in the vicinity of the City of Quebec, for the purpose of ascertaining whether it was possible to build a railway bridge there.

By order.

J. A. CHAPLEAU,

Secretary of State.

CANADIAN GOVERNMENT RAILWAYS,
OFFICE OF THE CHIEF ENGINEER AND GENERAL MANAGER,
OTTAWA, 28th February, 1891.

SIR,—As instructed by your communication of the 20th instant, I at once proceeded to Quebec to examine the several proposed sites for the projected bridge over the St. Lawrence River near that city, and to consult with Mr. Hoare, the Bridge Company's engineer, upon the subject of the several sites under consideration.

On the 23rd instant I accordingly met Mr. Hoare in Quebec, by appointment, and we drove out along the river bank and viewed four sites for the bridge which he had surveyed. Subsequently I looked over his plans and other papers in relation thereto, he offering me every facility to arrive at a thorough understanding of the matter. He certainly appears to have taken great care and exercised good judgment in selecting the several proposed sites for the bridge; and although he has not sufficiently full information to determine, with any degree of precision, the cost of the foundations (his labours, so far, having been confined to ground and water surface only), he probably has sufficient data to establish pretty accurately the cost of a structure at Chaudière, as the piers are designed to rest on uncovered rock, the channel being covered by one span. This site is really, it appears to me, unobjectionable. His estimate of the cost of the structure on the Chaudière location, of about \$4,500,000, is not, I am satisfied, very far out of the way. His approximate estimate for the bridge at either Point Pizeau or Point Diamond, of about double that at Chaudière, is not so reliable, as he has no knowledge of the nature of the bottom of the river. I may say that, in both these cases, two piers will stand in the channel, which may be objected to by the shipping interests. That at Point Diamond strikes me as very objectionable. The proposed site at the Island of Orleans may, I think, fairly be ruled out, as it would undoubtedly be very costly to construct. That it is feasible to construct a bridge over the river near Quebec there is no manner of doubt. The minimum cost, however, may be placed at \$4,500,000 or \$5,000,000, with approaches from the railways on either sides. This, however, can only be accomplished by taking the Chaudière route.

The following gives a general idea of the magnitude of the undertaking:—

Chaudière Site.

	Feet.
Extreme length of bridge.....	3,420
Width of river (water edge to water edge) high tide.....	2,300
do do do low tide.....	1,800
Deepest water in channel at low tide	143
Height above high water.....	150

Point Pizeau Site.

Extreme length of bridge.....	6,754
Width of river (water edge to water edge) high tide.....	5,600
do do do low tide.....	4,000
Deepest water in channel at low tide.....	122
Height above high water.....	70

Point Diamond Site.

Extreme length of bridge	5,866
Width of river (water edge to water edge) high tide.....	4,200
do do do low tide.....	3,900
Deepest water in channel at low tide.....	123
Height above high water.....	70

Island of Orleans Site.

Width of south channel at high tide.....	5,000
Width of north channel at high tide	8,000

Total..... 13,000

Width of south channel at low tide	4,000
Width of north channel at low tide... ..	2,000

Total..... 6,000

Deepest water south channel at low tide.....	92
Deepest water in north channel at low tide.....	48

I called upon the Mayor of the city, upon the Vice-President of the Board of Trade, and others, with the object of obtaining their views as to which site, in the interest of the trade of Quebec, was generally favoured, and from all I could learn it was evident they were all in favour of the Point Diamond crossing, or some other crossing directly opposite the city. The cost of a structure at any such point may be placed at a minimum of from \$9,000,000 to \$10,000,000. Before any location is finally selected it will be necessary to bestow a considerable amount of labour in obtaining the fullest possible information of the nature of the bottom of the river at the several points under consideration. I feel that if such work is done under Mr. Hoare's supervision and guidance it will be well done, and the information obtained may be accepted as reliable; for, from what I have seen of his work, I believe him to be a careful, trustworthy, able engineer, in whose work I would place great confidence.

I have the honour to be, sir, your obedient servant,
COLLINGWOOD SCHREIBER, *Chief Eng. and Gen. Manager.*

A. P. BRADLEY, Esq., Secretary, Dept. Rys. and Canals, Ottawa.

RETURN

(62a)

To an Order of the House of Commons, dated the 1st July, 1891, for a Copy of the Report of Thomas Monro, Government Engineer, upon the Manchester Ship Canal.

By order.

J. A. CHAPLEAU,
Secretary of State.

REPORT ON THE MANCHESTER SHIP CANAL.

SOULANGES CANAL, ENGINEER'S OFFICE,
COTEAU LANDING, 14th May, 1891.

SIR,—Referring to the accompanying extract from an Order in Council dated 24th December, 1890, and your letter of instructions dated the 13th January, 1891, I beg to enclose herewith a Report embodying the result of my examination of the Manchester Ship Canal, in the month of February of this year, together with some observations on the general subject of canal construction.

Pressure of business has prevented my submitting this document at an earlier date; and, as you are aware, the ship canal is of such vast extent as rendered it impossible to do more than accomplish a rapid inspection of its chief points, in the limited time at my disposal. It is hoped, however, that the Report may be of some value in directing attention to several matters connected with the construction of hydraulic works on which more extended discussion seems desirable.

I am, sir, your obedient servant,

THOMAS MONRO, *M. Inst. C.E., &c.*

A. P. BRADLEY, Esq.,
Secretary of Railways and Canals, Ottawa.

EXTRACT from a certified copy of a Report of a Committee of the Honourable the Privy Council, approved by His Excellency the Governor General in Council on the 24th December, 1890.

On a memorandum dated 20th December, 1890, from the Minister of Railways and Canals, representing that there has been strongly suggested to him by the Chief Engineer of Canals, the expediency, in view of the Dominion Canal works enlargement now in progress and contemplation, of obtaining by actual inspection, through one of its engineers, of some of the great works of canal construction now going on in England, a practical knowledge of the latest means and machinery adopted both for the construction and operation of canals built on the large scale of the present day; and a most favourable opportunity being now afforded in the construction of the great engineering work, the "Liverpool and Manchester Ship Canal," in which it is understood that the most recent improvements are being and will be adopted; it is proposed that Mr. Thomas Monro, an engineer of the Department of Railways and Canals, be sent over for the purpose of acquiring the information to be obtained in this connection—time to be spent in England not to exceed five weeks.

The Minister concurring in this suggestion recommends that authority be given accordingly.

The Committee submit the same for Your Excellency's approval.

JOHN J. MCGEE, *Clerk Privy Council.*

To the Right Honourable The Minister of Railways and Canals.

REPORT ON THE MANCHESTER SHIP CANAL.

The completion of the ship canal will make Manchester practically a seaport. Vessels of the largest size will be enabled to ascend from the tidal estuary of the Mersey and discharge cargoes from all parts of the world in the capacious docks and basins now nearly completed at Salford, 35½ miles inland.

This great scheme owes its origin to the business foresight, energy and wealth of Manchester; its main object being to cheapen freights by avoiding the excessive harbour dues of Liverpool—the cost of extra handling and cartage—and the heavy railway charges on goods between that city and Manchester. From the beginning of the enterprise it has been considered by its promoters an established fact that, when the canal is opened for traffic, rates of freight and marine insurance on foreign consignments to Manchester will not exceed those to Liverpool; and the saving thus effected will be available for division between the Canal Company and the owners of cargoes. The probable proceeds from this source will, it is stated, provide remunerative rates for the company, and result in a saving of at least 50 per cent. (see appendix) on the present average cost of transportation between the two cities.

The importance of such a reduction cannot be over-estimated, especially in the present condition of trade. The very existence of numerous industries in the districts around Manchester is dependent upon cheap transportation, now that the rate of carriage bears, in many cases, such a disproportionate relation to the cost of the commodities themselves. It is said that the dues at the ports of northern Europe, and the canal and railway rates between these ports and the interior (especially in Belgium) are so very much less than those which the trades of the Manchester districts have to pay, that all their industries are greatly overweighted in the competition which they have to meet; whereas the ship canal, when built, will go far to place them in as good a position as their continental rivals.

In brief, distance from the seaboard is now exercising a marked effect upon the prosperity of hitherto flourishing inland towns. Proximity to the coast means progress, whereas long railway carriage to a shipping point, with its attendant cost, will practically put a manufacturing centre out of the race in these days of fierce competition and narrow margins.

These statements are irrefutable; and the magnitude of the interests involved in the construction of the work in question may be conjectured from the fact that within a radius of 45 miles from Manchester there is a population of nearly eight millions chiefly engaged in manufactures. The prospective traffic of the canal during the second year after its being opened is estimated at about 4,500,000 tons, the revenue from which, would enable at least a four per cent. dividend to be paid on a capital of £10,000,000 and leave a considerable surplus for reserve or sinking fund.

As might have been expected, this enterprise was strenuously opposed from its inception both by the Dock Board and Corporation of Liverpool, and the various railway companies interested. About £150,000 had to be spent by its promoters before the Acts authorizing construction on the present plan were passed; and even now the works are hampered with conditions which have greatly increased the cost of the undertaking and may injuriously affect the future operation of the canal.

If, however, the scheme is successfully carried out, it will afford a striking example of what a great English manufacturing town can do, relying solely upon its own resources, and wholly without Governmental aid. Its construction will also afford another proof of the fact that no railway can compete with a canal of large dimensions in the cheap carriage of heavy goods. It is stated that even the Bridgewater Canal (navigated by barges of only about 50 tons) carries 60,000 tons of traffic per mile per annum, whilst the average of the railways of England and Wales is only 17,000 tons. It pays a larger dividend than any railway in the country, and has been recently acquired by the Manchester Ship Canal Company at a cost of £1,750,000. The Leeds and Liverpool Canal, worked independently of the railways, pays an average dividend of over 18 per cent.

The history of the inception and progress, so far, of the Manchester Ship Canal is very interesting and instructive. The capital originally considered as being amply sufficient for all purposes connected with the entire completion of the undertaking was (in November, 1886) set down by an advisory committee composed of able and experienced men at \$9,812,000. It was then stated that the cost of the works would not exceed £5,750,000, and that the sum of £802,936 should pay for all land and damages. The Bridgewater Canal to be acquired for the sum above mentioned, the average net income from this being set down at £60,000 per annum. Forty thousand shareholders showed what confidence the public had in the scheme; and for the first three years after the commencement of the works, the progress made was almost unparalleled. But the death of the contractor, Mr. Thomas A. Walker, had an immediate effect upon this rapid rate of progress: the works were not so vigorously pushed, although they were to have been completed, under a heavy penalty, in three years. Then the rate of wages advanced from 20 to 25 per cent.—the winter frosts of 1890 were phenomenally severe, and the heavy floods of November did much damage. The result of all this was, that, on the 24th November, 1890, the directors decided to take over the works upon certain conditions, and in this way avoid litigation with the trustees of the contractor's estate, as well as place themselves in a position to carry on operations untrammelled by the existence of any contract whatever.

At a half yearly meeting of the shareholders, held in Manchester on the 4th February last, this action was unanimously approved;—although only generally known then for the first time. In readjusting matters connected with Walker's contract (understood to have been originally for the sum of £5,750,000, with schedule prices attached) an addition to this amount was granted, for extras and unforeseen items, of £865,753, (see Appendix) whilst that expended for land and damages up to date was found to be £1,022,390. In short, the funds were confessedly exhausted, and the announcement was authoritatively made that unless relief were at once forthcoming, operations must soon entirely cease. An appeal for help was made to the Corporation of Manchester, which was promptly and cordially responded to. Estimates were made by the engineers of the company, showing that the additional sum required to complete was, say, £1,700,000; but before extending the promised aid the Corporation wisely had an independent enquiry made by their own engineer, which resulted in this amount being increased to about £2,500,000. Steps were taken to obtain the requisite permission from Parliament to advance the money. This power will be granted almost as a matter of course. Thus this immense undertaking will probably be completed at a cost of about £12,500,000; or, say, \$62,500,000—a much larger sum than that hitherto expended on all the Canadian canals, which is shown in the last Report of the Department to have been, up to the 30th of June, 1889—\$54,596,188.

There are, however, physical difficulties to be contended with in the operation of this canal, which may prove more formidable than those of financial origin already experienced. Indeed, of the Manchester Ship Canal, as a line of navigation suitable for ocean vessels, it may be said that it is an experiment on a gigantic scale—one which it is hoped may fully realize the expectations of its supporters—but still an experiment, because there are conditions met with which it is believed do not exist elsewhere in the same degree on a first-class line of navigation.

For example; the admission of tidal fluctuations into the lower two-thirds of a lock canal must prove a source of trouble in the movements of the large class of vessels which it is intended to accommodate. It is also obvious that the upper or inland portion between Latchford and Manchester, which absolutely takes the place of the Rivers Irwell and Mersey and their tributaries, will act as the main drain for a large area of country, and must be subject to sudden and objectionable variations of level. The surplus waters of this region hitherto found their way slowly along the winding courses of the rivers to the estuary, periodically flooding large areas of land along their margin. Now, however, the straight and deep line of "canalised river" will quickly carry all this off. It is said that during the heavy

floods of last November, about 30,000 cubic feet per second was the maximum flow into the canal over the weir at Throstles' Nest near Manchester. The rate of current which must ensue from the passage of even one-half of such a volume as this cannot but be serious even when the canal is completed to its full cross-section throughout and all the sluices are in position. These difficulties will, of course, be only of short duration and experienced at considerable intervals; still, when combined with those of the tide, they will render the navigation much more difficult than that of the Welland or St. Lawrence Canals, where each is arranged to admit just as much water as is required for satisfactory operation and no more. The fluctuations of the lakes and rivers do not seriously interfere with their safe working and the lower entrances are not embarrassed by the continuous oscillations of tides. It may be said, at this point, that the effective, rapid, and safe navigation, through lock canals, of vessels of 2,000 tons is no longer a problem for solution in Canada. The practical experience possessed on this point does not, however, exist in England, where up to the present time, the largest navigation has been for barges of about 300 tons—but by far the greater length of the aggregate of 3,000 miles of canal, said to exist in the United Kingdom, is for boats ranging from 25 to 50 tons burthen.

There are, however, some points in the construction of the Manchester Ship Canal which are worthy of full consideration. These will be alluded to in their proper order.

With these few prefatory remarks it is now proposed to briefly describe the canal, its structures, arrangements for its future operation, &c., &c. The following description is taken chiefly from a paper printed for circulation when the Fourth International Congress on Inland Navigation was held at Manchester last year. A copy of this paper was furnished by Mr. Williams, M. Inst. C. E., Engineer to the Canal Company; and is the only document obtained from him during the time of the examination.

The line of the Ship Canal leaves the Mersey at Eastham, a point on the south shore of the estuary six miles above Liverpool, and where a deep water channel approaches the lower entrance. It is intended to dredge there to a depth of 30 feet at neap, and 40 feet at spring tides, so that large vessels can enter the canal during a great part of each tide; and vessels of moderate draught almost the whole of each tide.

At Eastham there are three entrance locks side by side, of the following sizes in the chamber (1) 600 feet by 80 feet; (2) 350 feet by 50 feet; (3) 150 feet by 30 feet. There are also two sluices of 20 feet wide each for assisting in filling the canal—the surface level of which will be 14 feet 2 inches above the old dock sill at Liverpool, or about the level of mean high water.

At all tides above the ordinary level of the canal, all the lock-gates at Eastham are intended to be open. Spring tides will rise from 5 to 7 feet over ordinary level of the canal in its tidal portion, which extends to the next group of locks at Latchford, a distance of about twenty-one miles.

The length of the canal is, as before stated, thirty-five and a-half miles. From Latchford to Manchester, fourteen and a-half miles, it will be filled with the waters of the Mersey, Irwell and other rivers. The level of canal surface is arranged so as to take all the water, and thus form the main drain for a very large extent of country. Therefore, at each set of locks, large sluices are provided to deal with the flood and surface water. Steps are being taken to purify the waters entering the canal, which are now in a very polluted condition.

From Eastham, the canal is for 12 miles of the distance inland, and nine miles along the estuary. Embankments are, therefore, formed across the bays, &c. Where the foundation is clay, these are formed of clay hearting protected by heavy stone work. In some places where the bases of the embankments are on sand, close piling is driven on each side at the foot. At Runcorn a sea wall of concrete is being built instead of an embankment.

In addition to the locks and sluices at Eastham, and in order to permit of the tide flowing freely into and out of the first reach of the canal, two openings, each about 600 feet wide, have been formed in the north bank. One of these is at Ellesmere Port and another alongside the sluices opposite the River Weaver. There are ten of these sluices, 30 feet wide, to allow the water of that river to pass out of the canal. The sluices will also be used for tidal flow.

The canal passes Runcorn under the viaduct of the London and North-Western Railway, and leaves the Mersey by a deep cutting, approaching it again at "Old Randles," where two 30-foot sluices have been built to enable the tidal water to be let into or out of the canal.

Between Eastham and Latchford, the minimum width of the canal at bottom is 120 feet. The depth at mean high water is 26 feet. The surface width varies with the side slopes. The lock sills are placed 23 feet below water level, to allow of a future deepening of the canal by dredging.

At Latchford there are two locks side by side—the larger one being 600 feet by 65 and the smaller one 350 feet by 45. At Irlam, seven and a-half miles above Latchford, similar locks are nearly constructed, as well as at Barton, two miles above Irlam, and at Mode Wheel, three and a quarter miles from Barton. These last-named locks form the entrance to the Manchester Docks, which extend one and a quarter miles above Mode Wheel.

The total rise from the ordinary water level of the canal at Eastham to the docks at Manchester is 60 feet 6 inches. This rise, divided amongst four locks gives an average of about 15 feet $1\frac{1}{2}$ inches. All the lock gates are constructed of greenheart, a very hard wood imported from Demerara, which has been found by experience to be exceedingly durable; and the gates are said to be less liable to damage than those made of iron. The gates are worked by hydraulic power, provided at each set of locks, the engines and machinery of which are being constructed by Sir W. G. Armstrong, Mitchell & Co.

To let off the flood and surplus water, sluices on Stoney's patent are provided at each set of locks. These are 30 feet wide each. There are four at Mode Wheel and Barton, and five at Irlam. At Latchford there are only three; as the flood waters of the Mersey will flow down the river channel through Warrington, from the point above Latchford where the canal leaves the river and takes an independent course inland.

The railways are crossed over the canals by high level bridges. Of these there are five, viz:—The London & North-Western; The Great Western; Warrington & Stockport (2) and Cheshire Lines (Liverpool and Manchester). The clear headway for the railway bridges is 75 feet, which is the height of the underside of the Runcorn viaduct over the water in the canal. The total length of railway diversions is eleven and a quarter miles, and the viaducts are mostly on the skew with openings varying from 266 to 137 feet. In some cases a new line had to be formed on each side of the canal to the new crossing. From this it will be observed that the question of railway diversion was a formidable one to deal with, and added greatly to the cost of the undertaking. The embankments of approach are very high and swallowed up vast quantities of material.

There are two high level and six swing road bridges between Runcorn and Barton. The spans of these bridges are in all cases not less than 120 feet, the full navigable width of canal being retained. The minimum headway is the same as for the railway bridges.

The swing bridges will be worked by hydraulic power, as well as the moveable aqueduct which will enable boats to pass across the Ship Canal at Barton. This will have two openings of 90 feet each which will be crossed by a long iron caisson or trough resting on a central pier. This will be filled with water to the same depth as the Bridgewater Canal, and boats will pass through it over the Ship Canal. The caisson can be manœuvred like a swing bridge when required—the water being retained in it by lifting gates at each end. Similar gates will cross the Bridgewater Canal at the approach to this caisson to retain the water

in that canal when the aqueduct is open. The docks at Manchester will have an area of water space of 114 acres; the area of quay space being 152 acres. The length of quays will be $5\frac{1}{4}$ miles. At Warrington, a dock is proposed to be constructed of an area of 23 acres. At Partington the canal is widened out to allow steamers to lie on either side; and branch railways will be constructed with hydraulic coal tips to accommodate the trade.

With the use of the electric light the canal can be navigated at night. It is expected that the whole length of the canal can be traversed in about ten (10) hours.

The canal passes through either red sandstone, rock or marl; alluvial deposits of clay, gravel, sand or loam overlying the sandstone rock. These strata have been favourable for the work in some respects, as the rock where suitable is used for pitching the slopes of the canal where the soil is soft and requires protection from the wash of steamers; or for buildings or concrete. Excellent clay for bricks has been found, and 450,000 bricks per week have been made at the contractor's brick-yard near Thelwall. Large quantities have also to be bought, as about 70,000,000 will be used on the canal. The gravel and sand are being used for concrete, of which 1,250,000 (a million and a quarter) yards are required.

Concrete has been used wherever practicable in dock and lock walls. The copings and hollow quoins are of Cornish granite, while hard sandstone from quarries in Yorkshire, Derbyshire and Cheshire, and limestone from Wales, are used in other portions of the work. The lower portions of the dock and lock walls are formed of concrete. At the water level, granite or limestone fender courses slightly projecting from the face of the wall are inserted to protect the concrete. Above this level the concrete walls are faced with brickwork. Culverts are built in the upper parts of the dock walls for hydraulic and gas mains. All the brick work is faced with blue bricks. The total amount of brick work required is 175,000 cubic yards, in addition to 220,000 cubic yards of masonry.

For the excavation of the canal nearly 100 steam excavators of various types have been employed, (some of which have been constructed in France and Germany) and to convey the earth to the spoil grounds and for other purposes there were employed in 1890, 173 small locomotives; 6,300 waggons and trucks; 223 miles of railway (4 feet $8\frac{1}{2}$ inches gauge) having been laid alongside of and in the bed of the canal.

The rate of excavation has varied from $\frac{3}{4}$ to $1\frac{1}{4}$ million cubic yards per month. As much as 2,400 cubic yards have been excavated in ten hours by the German excavators, but their average work would be less than 2,000 yards. Like the French type of excavators, they are land dredges suitable only for soft soil. The English excavators have in good soil at times reached nearly 2,000 cubic yards per day, but their average in all sorts would be about 700 cubic yards. They are, however, capable of excavating very hard material, and even rock where powder is used ahead of the excavator. There were 194 steam cranes, 182 portable and other steam engines and 209 steam pumps, employed upon the works, and they consumed about 10,000 tons of coal per month.

The deepest cutting is near Runcorn, where for a short distance the depth is 66 feet. The largest cutting is at Latchford, where for a distance of $1\frac{1}{2}$ miles the depth averages 55 feet.

The slopes of the cuttings vary with the nature of the soil from 1 to 1 to 2 to 1. In the rock cutting the sides are nearly vertical.

The total amount of excavation is about 46,000,000 cubic yards; 10,000,000 of which is sandstone rock. The spoil from the Canal is used in filling up the river bends which are cut off by the Canal and in raising the low-lying lands near by, so as to make them available for use as shipyards and other purposes.

Of the $35\frac{1}{2}$ miles of canal, 15 are curved and $20\frac{1}{2}$ straight line. The sharpest curve is at Runcorn, and has a radius of 30 chains (1,980').

It is not considered necessary, for the purposes of this Report, to refer in detail to the small navigations tributary to the Ship Canal, further than to say that they

will prove most valuable feeders to its trade. Neither is any particular reference required to the various railway crossings. They have added greatly to the cost of the Canal, and it is said that the railway companies (who were all along antagonistic to the scheme) insisted on the various works connected with the deviation being carried out in the most costly manner. The viaducts are principally built of brick, and as they generally cross the canal on the skew, wide and expensive spans were necessary.

The above résumé of the principal items of work will give a pretty fair idea of the magnitude of the undertaking. It is now proposed to pass rapidly in review the chief points in construction as they presented themselves to the writer during the month of February last, the greater part of which was spent in making a close examination of the canal. It was traversed on foot from end to end, particular attention being given to the locks and other important structures.

The first feature which strikes the eye of a Canadian engineer is the absence of towing paths or berms in the cuttings, which are often fifty feet deep. The slope is generally steep and always continuous from top to bottom.

This plan has doubtless been adopted from economical motives; as it serves to lessen both the amount of excavation and the area of land required. But it is obviously a defective method of construction, as without towing paths or berms there is no way of stopping or mooring vessels in the cuts, or of passing along rapidly with means of help in case of collision or other accidents. It is also clear that in traversing the variety of soils above enumerated, there will be, in many cases, a tendency to slide which would be measurably diminished by the formation of a berm about halfway down the cutting, or near the level of ordinary water in the canal. As a matter of fact there have been numerous slides already, and means are being devised to prevent their recurrence on a more extended scale by filling up the gaps with stone, planting osiers, &c. The sandstone pitching of the slopes does not appear to be of a character to resist permanently the wash of ocean steamers, if they should perform the trip from Eastham to Manchester in the time expected, viz., 10 hours. It will probably take on an average three-quarters of an hour for a large ship to get through a lock and as there are five of these, the speed at which the Canal part of the voyage would have to be made would, even with the large cross-section of canal, create a wave that would probably peel off the pitching in many places. The general impression given was that the side slopes are too steep throughout.

As to the shifting of material, it is evident at a glance that perfect organization existed for the execution of that important part of the work. The contractor's equipment of locomotives, excavators, cars, steam pumps, railway tracks, lighting, huts for the workmen, and all the details connected with the operations showed a combination of skill and foresight which only long experience combined with rare ability could give. Some idea may be formed of the extent of the operations carried on by Mr. Walker, when it is stated that the value of the plant owned by him, on this contract alone, was valued at about *a million sterling*.

There is nothing particular to observe in the methods adopted of taking out either the rock or earth. The railway tracks have, it is said, a maximum incline of 1 in 30, which was found to be the practical limit of economical grades. The haul is in many cases very long—several miles, but from all that could be learned it does not appear that earth excavation costs on an average more than 30 cents per cubic yard. Reliable information on points connected with values was not, however, obtainable during the time of the writer's visit. This will be readily understood if the embarrassed state of the Company's affairs and the partial confusion consequent upon a sudden change of management are taken into consideration. This remark also applies to the difficulty experienced in trying to understand several

matters without such help as is usually afforded, principally owing to the fact that the time of the Engineer seemed to be almost wholly taken up in making estimates of work remaining to be done in order to fully complete the canal.

As previously stated, the sides of the rock cuts are nearly vertical from top to bottom. Some of these are so smooth that the sandstone looks as if it had been planed off. A very good idea of this can be formed by examining photograph No. 22, of the series attached, which shows admirably the wavy stratification of the rock in the cutting near Ince. The steam shovels used there were of sufficient power to remove the rock easily when loosened by blasting in advance of the machines. In some cases over 500 cubic yards of this material was taken out in ten hours. The Ruston Proctor machine seems to have been a favourite. Time would not permit of a close examination of the varieties employed on the work. A list of the manufacturers, is, however, appended to this report. The earth waggons were of a substantial class and in excellent condition. They hold about four cubic yards each—there being generally twenty cars to a train—sometimes more. The locomotives were of the usual contractors' type, costing from £1,000 to £1,250 each.

A large part of the earth was used to fill in the old river bed, as previously stated. In many places it was hauled in large quantities and for long distances to make up the new railway embankments; and in some places enormous spoil heaps are formed, one of which, near "Stanlow Cutting," appears to reach an elevation of about 100 feet over canal bottom. These features give an impression of magnitude somewhat like that produced on looking south from Allanburg through the deep cut on the Welland Canal. The rate of progress has been previously stated at an average of about one million cubic yards per month. This, it is said, was kept up for a considerable period. The force employed sometimes reached the large number of 20,000 men and boys. Small villages of huts were erected for their accommodation at convenient points along the Canal.

It is now proposed to look more in detail into various points of construction which may be found useful in considering future plans connected with the completion of our canals. The numerous drawings accompanying this report show clearly the dimensions of several of the locks and sluices, and a description of the chief features of one set will serve for all the rest.

All the locks and sluices on the canal are founded on red sandstone rock. This is, of course, a most important point, and must have largely contributed to save the works from more serious injury than they appear to have sustained during the floods of last November. The rock where it forms the chamber-floor is hollowed out into the shape of an invert. In several cases the walls were built before the central portion or core of rock was excavated; this serving, meanwhile, as available space on which to deposit materials, make roads, and, generally speaking, to get over the work, and thus save a large amount of labour in hoisting. The walls throughout are of concrete, with brick facing above the level of the lower reach. They are not designed of much greater thickness than the dimensions usually given to those of masonry. The width of the dividing wall between the two locks at Latchford, Irlam, Barton and Mode Wheel is about 30 feet, but it is pierced by filling culverts of large dimensions, one for each lock. The top width of the wall gives ample room for working operations. All the inland locks are arranged with a third or middle gate so as to economize water for filling, as well as facilitate the passage of vessels. The large lock, 600' x 65', can in this way be made 450' x 65' or 150' x 65'. The smaller lock alongside, 450' x 45', can be made either 330' x 45' or 120' x 45'; so that, in all, six different sized vessels may be served as occasion requires by two locks. The amount of feed saved will, of course, depend upon the total traffic and the proportion of small craft which will use the canal. The tendency in such a trade will, however, be towards an increased size of vessel. If it has been thought advisable to incur the expense of extra gates, mainly to save feed, it should be borne in mind that the demand for this must increase whilst the supply cannot be augmented except by storage, which in such a densely populated district would be a very costly

affair. It is said, however, that the supply is ample, and it is presumed that this question has been placed beyond a doubt. No such element enters into the calculations for our canals—their supply is constant and practically inexhaustible.

On the Ship Canal the upper gates are placed on a breast wall forming a horizontal arch. These gates are, therefore, not nearly so high as the lower ones. This is an old arrangement, and is obviously better than the present mode of having all the gates of the same height at each lock as on the New Welland and St. Lawrence Canals. Many of the accidents which occur in navigation arise from vessels striking the upper gates when closed on the reverse side of the mitre, by which they are pushed apart and then at once swept out of position by the rush of water—great damage being also generally done to the vessel, and sometimes to the reaches below. But with a breast wall, as on the Ship Canal, the upper gates are out of danger, because a vessel may strike the wall but cannot touch the gates, which are, therefore, safe from the fruitful source of damage alluded to. There is no timber whatever in the foundation of the locks or retaining walls. The mitre sill platforms are of stone, and the gates shut against massive sills of granite. By the introduction of masonry inverted great stability is secured.

It is not necessary to describe the brick facing of the locks above the rubbing course of granite which is carried all round at about the level of the surface of the lower reach. Such a method of construction is entirely unsuited to our climate—and appears liable to be destroyed if struck heavily by a vessel. It is presumed, however, that the plan has been practically tested before being adopted in such an important position. As a general thing it may be said that all the works connected with the locks, sluices and other structures of the Manchester Ship Canal are executed in an excellent and workmanlike manner.

The group of locks at Eastham (the dimensions of which are previously given) is designed to meet the special requirements of navigation at the Mersey entrance, where the spring tides rise to from five to seven feet over ordinary level of the canal, or about 21 feet. During such times the gates will be open, the tide being permitted to flow freely into the canal. At flood, the gates will be shut and the water thus penned in, will, on the ebb, run out through the openings made for that purpose at Ellesmere Port, Runcorn, &c., and be used for locking up at Eastham. The water of the canal below Latchford will thus be more or less in a constant state of fluctuation or oscillation. What the effect of all this will be on the operation of the entrance gates or the navigation of the canal for ocean vessels cannot now be determined. As before stated, it is an experiment, the solution of which experience only will give.

The locks are filled by culverts formed in the side walls. The openings leading to these are in the recesses behind the gates as shown in the various plans. The obvious advantages of this system are the rapidity with which the chamber can be filled without creating such objectionable currents as when this is done through valves in the gates, and also the important fact that by its adoption the gates themselves are not weakened by forming large openings in them, just where strength is most required. Culverts are not necessarily an element of weakness in the structure, and as the level of their bottoms can be made the same as that of the lock floor, it follows that when the chamber is emptied so are the culverts, which is not the case when they are constructed under the lock floor, and where in case of accident they have to be pumped out even after the lock is emptied. This increases the difficulty of unwatering when to do this rapidly is a matter of the greatest importance, as for example during the height of the navigation season, when trouble is most likely to arise. This is forcibly illustrated by the accident which happened at the Sault Ste. Marie Lock last season, where by far the greater part of the time was occupied in the unwatering below floor level whilst a whole fleet of vessels awaited the re-opening of navigation outside. It seems clear, therefore, that the plan of having culverts in the side walls in the manner adopted on the Ship Canal and numerous large works in England has a great many points to recommend it. It has been objected that in this climate the frost may be introduced by these openings into the

heart of the walls and have a damaging effect on the masonry. It does not appear that this view can be established. During the operation of the Canal, the culverts are, of course, always full and do not require to be emptied unless in case of accident or when the Canal is undergoing repairs in the spring, so that there is really no chance to damage the walls in the way apprehended. It seems as if our own Canal experience so far gives sufficient proof of the correctness of these views.

The lock gates on the Ship Canal (see plans) are of great strength—very heavy and costly. Indeed it would appear as if the same superabundance of strength which is generally seen in the structures of this canal culminated in the lock gates.

They are framed and put together in large sheds erected for the purpose. They are accurately fitted in all their parts, and the workmanship is of the very best kind. When completed in the shop, they are taken apart and transported to the works where they are set up in place. This, of course, adds to the cost, which is very large. It is said that one leaf of the gates of the large lock, at Eastham, will cost as much as a complete set for a lock on the Welland Canal, or about £3,500. The greenheart is imported in logs from the West Indies, and there is considerable waste in framing the timber. There is nothing in connection with the gates which affords an example for construction in this country. In a recent discussion at the Institute of Civil Engineers on the question of lock gates, it was remarked by a competent authority that it was curious to observe how some engineers adopted iron and some wooden lock gates. At the Alexandra Docks, at Hull, wooden gates are employed; at the Barry Docks, iron gates. At Liverpool, wooden gates; at Havre there were formerly wooden gates across the big entrance (100 feet wide) of the Eure Dock; but for these iron gates have been substituted. Although, it seems as if the general verdict were in favour of wooden gates, it appears strange that those on the Manchester Ship Canal, which runs through a county of iron manufactures, should be built of wood imported across the ocean at great expense. As to their being less liable to damage than iron gates, it is to be feared that if a large vessel strike either, the result would be about the same. On the Welland and St. Lawrence Canals, the solid gates which have been some time in use have given fair satisfaction, although a weak form of construction. For high lifts, gates built on the plan of those of the American Sault Ste. Marie Canal have the materials scientifically distributed to meet the strains; and in practice they have given much satisfaction. The frames are of oak sheeted with Norway pine, and strengthened with iron bolts and straps where necessary, so as to combine lightness with strength. A leaf of the Lower lock gates weighs 76 tons. A modification of these gates to suit the circumstances of each case would form a very good type for use in the completion of the St. Lawrence Canals.

The machinery for operating the heavy gates and sluices of the Ship Canal is correspondingly heavy and expensive. The Armstrong hydraulic apparatus, now being constructed at Eastham, is only partly executed, and its ultimate cost could not be obtained. This system is in use to a considerable extent at the Liverpool docks, where it is found to answer admirably. It was said that the cost of building and machinery at Eastham alone would be over £50,000, and at the other four sets proportionately expensive. In the statement given of the extra sums granted to the contractor by the arrangement of the 24th November, 1890, previously referred to, an item of £36,104 appears for "additional work on the Armstrong contract." It seems probable that the cost of buildings and machinery to operate all the lock gates, &c., would be at least £250,000. The interest on this would be about \$62,500 yearly, to which the cost of fuel, attendance and operators on the lock must be added. This would place such a system quite beyond our means for anything but an isolated lock like that at Sault Ste. Marie. The machinery of the new American lock there is estimated to cost \$100,000, and the annual expenditure for operation cannot be less than at the present one, viz., over \$30,000. It seems, therefore, clear that the hydraulic system could not be judiciously adopted on a canal with numerous locks, but it is probable that machinery for the purpose may soon be very much simplified; and both its first cost and that of operation greatly reduced by the introduction of

electrical apparatus, especially where there is sufficient water power available in the vicinity. On the Ship Canal steam is used at Eastham to pump water into an accumulator from whence it is distributed at high pressure all over the locks in pipes to wherever the power is required. This is applied to the purpose of opening and shutting the gates much in the same way as at Sault Ste. Marie, but an improvement is made by having the chains work from a fixed point in the lock wall as will be seen on examining the plans. At the Sault the driving power is the fall at the lock, as there is no need of economising water, such as exists on the Ship Canal.

In reference to this matter, it may be said that the most recent application of hydraulic power to the operation of gates is at Barry Docks, South Wales, where pistons connected with rams placed in recesses behind the gates are applied to fixed points in their rear. These pistons, the stroke of which is over 26 feet, push the gate shut, or pull it open as required, and this is performed with great steadiness, even when there is a very rough sea. This is a manifest improvement on the complicated system of sheaves and chains of the Armstrong plan and has received the warm approval of many distinguished English engineers. If electric motors could be used to effect the object somewhat after this fashion, lock gates of the size of those on the St. Lawrence navigation could be worked with great ease and expedition. The subject is one well worthy of close attention.

It has been previously observed that all the lock and dock walls are almost entirely built of concrete, the amount of which used on the Ship Canal will be about 1,250,000 cubic yards. Its preparation is conducted in a very simple and apparently quite efficient way, by ordinary labour for the most part; but the greatest care is taken in the selection and treatment of the materials of which it is composed, and from which such very satisfactory results have been secured.

As to the cement—this has been obtained from various manufacturers, but it is all subjected to the same tests. It would take too long to describe these in detail, but it may be said that where so much depends upon the purity of the article, its quality is assured by the most rigid examination and trials. A cement must not only stand a certain maximum breaking strain at a definite period shortly after setting, but it must show a considerable increase of strength in time. For example, suppose an inch section breaks at the end of seven days at 300 lbs., then it is made imperative that the same section shall be made to stand, say 375 lbs. in twenty-eight days afterwards. Then, as regards the essential quality of fineness, this must also be thoroughly satisfactory. In brief, the progress of science and improved methods of manufacture have clearly shown that risks of failure, hitherto deemed inseparable from the use of Portland cement concrete, are really attributable either to the fact that the cement has been badly made, or that proper care has not been exercised in the preparation of the aggregate, to ensure which only ordinary precautions are required.

The greater part of the concrete used in the Ship Canal is formed of gravel, sand and cement in the proportion of 8 to 1 by volume. In the face work 4 to 1 is used. The aggregate is thoroughly mixed on a platform—then a sufficiency of clean water is added through the rose of a watering pot, and the whole well turned over when wet. It is then wheeled from the platform on runs and dumped on the wall from the barrows. This is all that is necessary to insure an excellent job. Miles of walls made in this way were carefully examined by the writer, and no change was visible in any part of them, although last winter's frosts in England were, as is well known, exceptionally severe.

There may, of course, be positions in which, for economical reasons, rubble masonry might be preferable to concrete; but the manifest facility and cheapness with which a hydraulic wall can be built of this material—the ease with which it can be moulded into any required shape, thus often avoiding costly cutting—and the fact that but a short training is required to enable an ordinary labourer to prepare it, are obviously strong arguments in favour of its more general adoption on the hydraulic works of Canada. On the Ship Canal the filling culverts through the lock

walls previously alluded to were intended to have a lining of bricks throughout, but they are now simply faced with richer concrete, and the brick lining has been dispensed with as unnecessary.

A most instructive example of the adoption of concrete as a building material in our climate, and under the most disadvantageous conditions, is afforded by the recent renewal of a considerable portion of the breakwater at Buffalo Harbour, the wooden superstructure of which had been more or less destroyed by the violent gales so prevalent on Lake Erie.

The question of the advisability of abandoning the old method of renewing wooden superstructures with the same perishable material, and in view of the greatly increased price of timber, has been frequently discussed. It has been proved that even supposing the life of the latter to be fifteen years, it would pay to rebuild in stone or concrete. It therefore becomes a matter of considerable importance as to which is the better plan to adopt. In the case in point, two modes were submitted. One was to renew the superstructure with a hearting of concrete faced with cut stone. The other was to make the whole of concrete; the interior portion to be of native cement, and the outer four feet all round and on top to be formed of Portland cement concrete. The first plan was, after a short time abandoned, because of the great cost of the masonry, and also for the reason that the experience obtained led to the conclusion that concrete alone was sufficiently strong and durable to withstand successfully the attack of storms which had destroyed the wooden superstructure.

The officer in charge of the work reported that in May, 1838, a careful examination of the new concrete work was made after the ice had left Lake Erie, and though the preceding winter had been exceptionally severe, no damage was done, and the surface of the concrete had undergone no perceptible degradation. It was then recommended that the further use of masonry should cease; and as a matter of fact there were only 228 cubic yards of cut stone built, although it required about 15,500 cubic yards of concrete to renew 1,450 in length of superstructure. In this case the cut stone cost nearly six times as much as the concrete, but the price of neither can be taken as a fair criterion for work done under ordinary circumstances. There were many interruptions owing to its exposed position, and the frequent occurrence of stormy weather, besides the extra expense attendant upon it being out of the reach of ordinary means of transport. The engineer has recommended that a further length of 2,000 feet of pier be renewed on the same plan which has proved quite satisfactory.

The late Chief Engineer of Canals, Mr. Page, also had a test made of this material with a view to using it for the purpose above described; but in a much more sheltered position. A length of some 400 feet of the east pier at Port Dalhousie Harbour, the wooden superstructure of which was quite decayed, was rebuilt of concrete, the cross-sectional dimensions of which are about 18 feet by 5 feet. It has resisted perfectly the action of frost and has in every way proved suitable for the intended purpose. Means are not at hand to get at the particulars of its preparation or cost, but these can doubtless be had from the officer in charge. It may be said, however, that the work being only an experiment (and confessedly so) would likely prove more costly than if a large quantity had been done and the proper experience acquired. Opinion is divided as to the propriety of mixing native and Portland cements together, but it seems to be generally in favour of the use of the latter only where the best results are required.

From the foregoing, it would appear that extensive experience, both English, American and Canadian, point to the conclusion that Portland cement concrete, if made of sound materials and with proper care, can be safely used in hydraulic works and in exposed positions in this climate, and that the question of its durability has ceased to be a matter of doubt or conjecture.

Another point in connection with the Manchester Ship Canal which merits special mention is its sluices on Stoney's Patent, which are introduced throughout in

the locks and weirs or wherever water has to be controlled. These sluices are an excellent invention, and may be briefly described as wrought iron shutters or doors moving vertically in grooves formed in the masonry piers of the weirs, etc.,—and carried on live rollers so arranged as to almost eliminate friction, so that with the use of the counterbalance they can be operated by hand power with surprising ease.

It is obvious to any one who has had practical experience of the troubles arising from the use of some of the existing valves on our canals that simplicity of form is a great recommendation, for nowhere is this more valuable than in connection with the regulation and control of water on a line of navigation. Complicated valves, almost impossible to work satisfactorily and as easy to be damaged as they are difficult to repair, should be done away with and the principle of the Stoney sluice introduced in their stead.

The plan attached will show the details of the gates, roller frames, water tight joints, etc., which it would be impossible to describe here. The great merits of this invention are now universally recognized. The sluices are especially adapted for controlling large bodies of water, but can also be as advantageously applied to the purposes of lock and culvert valves. It is obvious that there is a great advantage in having a completely unobstructed opening secured in the way shown. Logs, sticks or other floating bodies which would jam in the valves of an ordinary weir built as at present with numerous small submerged openings, could pass freely through the spaces between the piers of the Stoney sluice. In these the shutters are made to run up to such a height as to be entirely clear of the surface of the water, and thus give perfectly free openings of 30 feet wide of the full depth required, which would not have been practicable, except by an application of the principle carried out in Stoney's patent.

Where the Ship Canal crosses the embayment at the mouth of the River Weaver, there is a large weir (previously referred to) having ten of these sluices with an aggregate width of 300 feet. The details of this fine structure are well worthy of attentive study in connection with the completion of our canal system, especially on those portions where the work of construction has not yet been commenced and where arrangements can readily be made for the reception of these sluices with modifications suitable to the circumstances of each particular case. The wisdom of adopting them so generally on the Ship Canal, will be abundantly evident on examining the series of photographs forwarded herewith, which were taken immediately after the last floods; and show what provision is necessary to prevent disaster when the line of navigation is opened for traffic.

Attention is drawn to the accompanying printed document for further details on the construction of these sluices, which will be found very interesting. It contains evidence given by engineers before the Judicial Committee of the Privy Council in favour of the renewal of the patent. In this connection it may be said that there is no reason why the sluices could not be manufactured in Canada from the plans now submitted; but in fairness to the patentee, who has devoted many years and much labour to the whole subject before bringing his invention to its present state of perfection, he should be called upon, in case his sluices are adopted on any of our public works, to supply the detailed plans and estimates of them; and, if considered necessary, send some competent engineer or mechanic here to superintend their erection on his behalf.

As previously stated the drainage of the country will, above Latchford, be effected by the canal, but on its tidal portion some streams are passed under the canal, the principal one being at the River Gowy. The culvert for this is a considerable structure, and consists of two cast iron tubes of 12 feet diameter each. These are built of segmental plates fitted together and bolted at the joints. The body of the plates is 1 inch in thickness, the edges being strengthened by feathered ribs. The tubes are bedded in concrete, and their tops are placed about 4 feet below canal bottom to permit of subsequent deepening. Their ends are formed of concrete walls and wings, and the channels of approach are about 35 feet wide at the bottom,

their sides being protected with heavy stone pitching. The bottom of this culvert, where it passes under the Ship Canal, is fully 50 feet below the surface of the ground adjoining. The material excavated appears to have been very soft clay and considerable trouble was experienced in getting a proper foundation, especially at such a depth below tide-water. The length of the syphon is 360 feet.

At periods of high water in the Mersey the water will rush through these tubes into the valley of the river or creek, and flow out with the receding tide. This form of culvert has been adopted in view of its efficiency and cheapness. The tubes can, of course, resist pressure in either direction, and in that respect (amongst others) have a manifest advantage over masonry arches. Steps have been taken to preserve the inside surfaces from the corrosive action of salt water. No difficulty is, however, apprehended in connection with these tubes; although when once filled they will be difficult to unwater; nor does there appear to be any reasonable grounds to doubt their fully and efficiently answering the intended purpose.

As regards the proportion of work remaining to be done and the time necessary for completion, it may be stated that three-fourths of the excavation was taken out up to February last; so that at the rate of progress previously attained it should be completed in twelve months. It must be borne in mind, however, that there are some very difficult portions yet untouched, as for example the long gap in the embankment between the Weaver and Runcorn. These banks where they encroach upon the sands of the Mersey have already given a great deal of trouble and will probably give more. The locks for the Bridgewater, Weaver and Runcorn Canals are situated at this point, and in the vicinity there has been considerable subsidence, large quantities of material having been swallowed up before a foundation was obtained. There are also certain parts in the interior between Latchford and Manchester in the earthwork sections yet remaining, where there will be trouble again from water. But the various locks, sluices, &c., from Eastham to Mode Wheel are in quite an advanced stage. At Eastham the gates were partly set up and the machinery for their operation was being fitted in place. Nearly all the dock walls at Salford are built and a large amount of work is done in that vicinity.

The railway viaducts and approaches are well advanced. Some of these structures are very costly, but as they are not directly connected with the question of navigation—being fixed at a certain height over the canal—no special examination was made of them.

The Stoney sluices were in place at Eastham and "Old Randles," and in progress at other places. Some of the road bridges were in process of construction. These are very considerable structures, the long arm of those made to swing having a span of 120 feet. During the examination the works presented at many places an extraordinary appearance owing to the action of floods, which has torn up the railway tracks laid in the bottom of the canal, upset the steam shovels, waggons, &c., and burst through the dams in many places, filling long sections of the incomplete prism with water which had to be pumped out before operations could be resumed. Below the locks at Latchford the water rose upwards of forty feet—and for miles the canal looked as if it were ready for navigation. But notwithstanding these drawbacks, there is no reason why, if the necessary funds are forthcoming in time as they doubtless will be, that the canal throughout should not be opened for traffic next year. There will probably be some trouble in excavating a channel of approach at the lower entrance and keeping it clear afterwards. There is much uncertainty about all such channels, and those amongst the shifting sandbanks of the estuary of the Mersey, are, it is said, constantly changing. The main shore below Eastham is, however, rocky, and the channel chosen for leading to the entrance to the canal, has, it is understood, preserved its present dimensions for a long period.

It is difficult, however, to understand how large vessels will be able to safely enter the Eastham locks when borne along on the tidal current to the mouth of the

canal, but it is presumed that the experience gained at the Liverpool docks, where vessels have to enter quickly from the river during high water, will enable ship captains to guide their crafts safely in what seems to be a dangerous place. It appears as if it would have been an excellent thing to form a large basin just above the group of locks at Eastham, where vessels could halt before starting up the canal. It is to be hoped, however, that all the benefits expected to flow from the construction of this great work will eventually be realized. The Ship Canal is expected to begin business with a tonnage of about four and a half millions. This figure (although large) is only about half that now passing through the Sault Ste. Marie, which is increasing at the rate of over a million and a quarter tons per annum. In one month (June, 1890), 1,413,001 tons of freight passed through the lock, and its full capacity may be reached before the Canadian canal, now in progress, can be built. The tonnage which passes Detroit, represents the trade of Lake Michigan in addition to that of Superior, and is over 20,000,000 (twenty millions) tons per annum. This shows the enormous proportions to which the lake traffic has grown, and the cheapness of water transport is sufficiently evident from the fact that wheat is being carried this season from Chicago to Buffalo, a distance of about one thousand miles, at a rate of one cent per bushel.

In conclusion, it may be said that the general impression formed of the Manchester Ship Canal, is that of a magnificent line of navigation, the works of which have been most substantially executed, but whose free operation will be somewhat trammelled by its having to act as the main drain for a large country at one end, and be embarrassed by the unfortunate necessity of admitting tide water at the other.

A large number of plans, pamphlets, photographs, &c., are sent in herewith. This report would, doubtless, be better understood if some of these were reduced, and printed as illustrative of the text.

Special thanks are due to Mr. W. H. Topham, the general manager for the trustees of the Walker estate, who supplied a large amount of information on which this report is based, and also to Mr. A. O. Shenck, the chief engineer for the contractors, who most willingly gave all the technical data in his power at a time when he was fully occupied in preparing estimates and other professional documents connected with the question of the additional amounts of money which it would be necessary to raise beyond the original estimate, in order to insure the full and satisfactory completion of the Ship Canal. Finally, it is hoped that the above rapid and necessarily incomplete review of the principal matters connected with this magnificent enterprise may be of service in drawing attention to those points upon which further and more detailed information seems desirable.

Respectfully submitted,

THOMAS MONRO,
M. Inst. C. E., &c.

To A. P. BRADLEY, Esq., Secretary, Department Railways and Canals, Ottawa.

APPENDIX.

STATEMENT made of the amount of additional expenditure not contemplated when the contract was arranged.

Requirements of the Mersey Conservancy at Eastham	
Locks.....	£219,017
Railway and canal companies, additional.....	68,300
Lengthening slip at Ellesmere Port.....	10,625
Deviation railways, additional.....	79,951
Vyrmy waterworks sub-way (Liverpool).....	6,722
Landowner's requirements.....	29,964
Additional work.....	39,581
Docks and straightening canal at Barton.....	154,000
Extras on Armstrong's contract.....	36,104
Flood sluices	11,048
Extra cost of materials, concrete.....	£ 99,688
Stone	40,760
Substitution of brick work for masonry rubble.	69,813
	210,261
	£865,573

Land expenses.....£1,022,390

(Extract from speech of chairman at meeting of 4th February, 1891, at Manchester.)

LIST of Firms who have supplied Excavators, Locomotives, Cranes, &c., for the works of the Manchester Ship Canal.

Excavators.—Ruston, Proctor & Co., Sheaf Iron Works, Lincoln. J. H. Wilson & Co., Sandhills, Liverpool. Whitaker Bros., Horsforth, near Leeds. Boulet & Co., Rue Bained 31—Paris. Lubecker Machine Co., Germany. Priestman Bros., Holderness Foundry, Hull.

Locomotives.—Manning, Wardle & Co., Boyne Engine Works, Leeds. Hunslet Engine Co., Hunslet, near Leeds. Hudswell, Clarke & Co., Railway Foundry, Leeds.

Pile Engines.—Sissons & White, Hendon Road, Hull. Whitaker Bros., Horsforth, near Leeds.

Lathes and Drilling Machinery.—Butterfield & Co., Midland Works, Keighley.

Hydraulic and other Jacks.—Tangyes, Limited, Deansgate, Manchester. Warden & Sons, Broad Street, Birmingham. Gowdy & Co., 400 Queen Street, Cannon Street, London, E.C.

Lamps, Lights, &c.—A. C. Wells & Co. (Well's Lights), Carnarvon Street, Cheetham, W. C. Cowdy & Co. (Engine Lamps), 40 Queen Street, Cannon Street, London, E.C.

Cranes.—Thomas Smith, Olf Foundry, Rodley, near Leeds. J. H. Wilson, & Co., Sandhills, near Liverpool. Butter Bros. (for Derricks), 20 Waterloo Street, Glasgow.

Portable and Stationary Engines and Boilers.—Ruston, Proctor & Co., Sheaf Iron Works, Lincoln. Ransom's, Sims & Jeffries, Orwell Works, Ipswich.

Pumps.—J. A. Wade, Patent Tile Works, Hornsea, Hull. Ruston, Proctor & Co., Sheaf Iron Works, Lincoln. Tangyes, Limited, Deansgate, W. C. Bailey, W. H. & Co., Oldfield Road, Salford.

TABLES SHOWING RELATIVE COST OF TRANSPORTATION.

(1.) PRESENT COST of Transit of various Articles from ex-Ship, Liverpool to Railway Station or Canal Wharf, Manchester.

Articles per 20 Cwt	Dock and Town Dues.		Master Porterage.		Quay Attendance.		Carting to Rail or Barge.		Railway or Canal Carriage.		Total per Ton.	
	s.	d.	s.	d.	s.	d.	s.	d.	s.	d.	s.	d.
Cotton.....	3	0	1	3	1	0	1	3	7	2	13	8
Wool.....	3	6	1	6	1	0	1	3	9	2	16	5
Sugar, loaves.....	3	0	1	10	1	0	1	3	10	10	17	11
do unrefined.....	2	1	1	2	1	0	1	3	6	8	12	2
Bacon and hams.....	2	2	1	5	1	0	1	3	9	2	15	0
Tinned meats.....	4	0	2	0	1	0	1	3	9	2	17	5
Tea.....	2	6	2	7	1	0	1	3	10	10	18	2
Grain, wheat in sacks.....	1	4	0	8	0	3	1	0	6	8	9	11
Fruit, oranges.....	1	3	1	7	1	0	2	0	9	2	15	0
Petroleum.....	1	8	1	4	1	0	1	3	9	2	14	5
Tallow.....	2	3	1	1	1	0	1	3	7	11	13	6
Iron ore.....	0	3	1	2	0	1	1	8	4	2	6	11
Timber.....	1	0			1	9			6	8	9	5

(2.) THE COST of bringing the same Articles to Manchester by the Ship Canal, including the Maximum Charges in the Bill.

Articles per 20 Cwt.	Canal Toll.		Landing Charges.		Wharfage.		Total per Ton.	
	s.	d.	s.	d.	s.	d.	s.	d.
Cotton.....	4	3	1	0	1	9	7	0
Wool.....	5	0	1	0	1	9	7	9
Sugar, loaves.....	4	2	1	0	1	6	6	8
do unrefined.....	3	4	0	6	1	1	4	11
Bacon and hams.....	5	0	0	6	1	11	6	7
Tinned meats.....	5	0	1	0	2	0	8	0
Tea.....	5	10	1	6	1	3	8	7
Grain, wheat in sacks.....	3	8	0	6	0	8	4	10
Fruit, oranges.....	5	0	0	6	0	8	6	2
Petroleum.....	4	7	0	6	0	10	5	11
Tallow.....	4	2	0	6	1	2	5	10
Iron ore.....	2	1	0	6	0	3	2	10
Timber.....	3	9	0	6	0	6	4	9

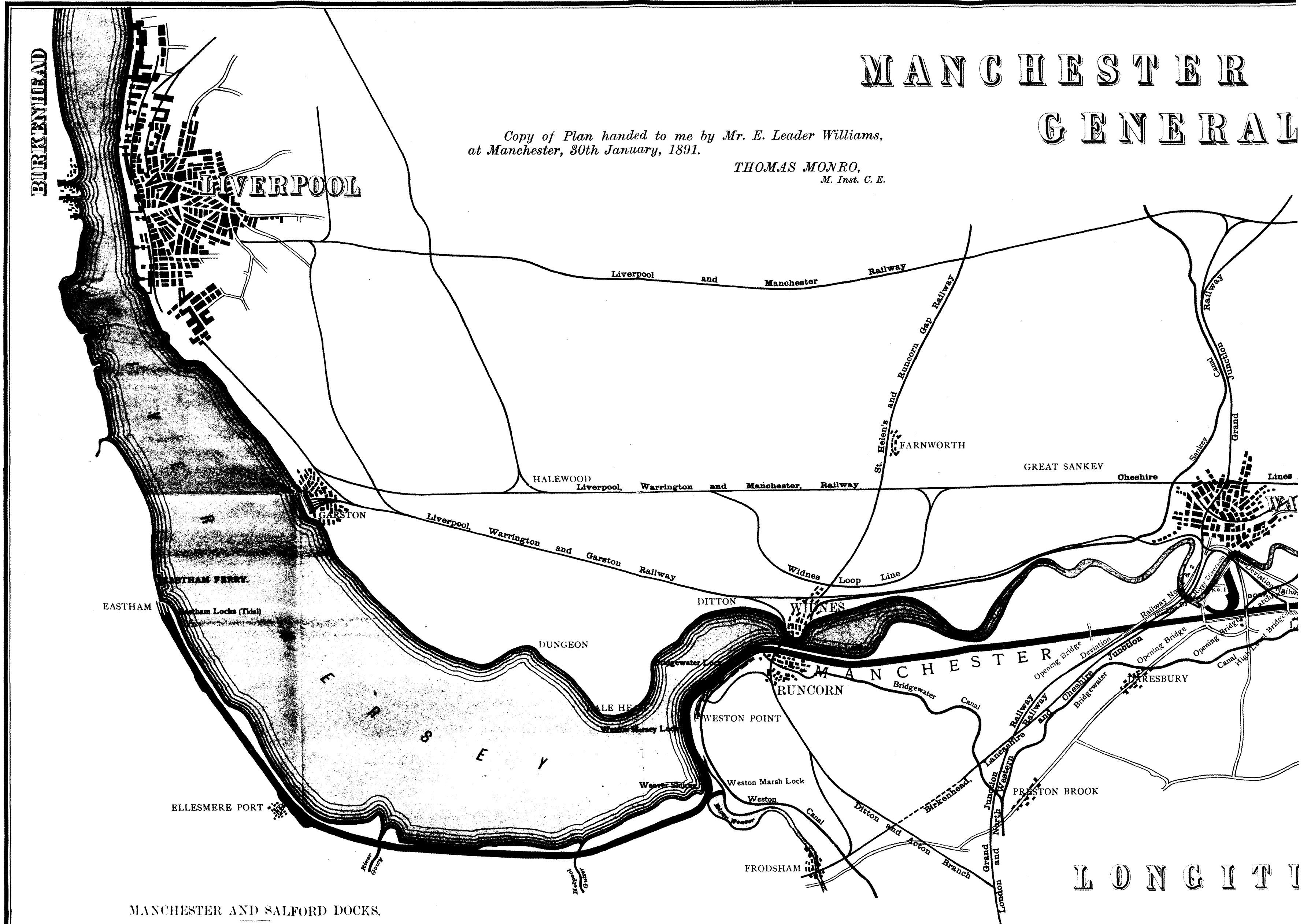
(3.) COMPARISON of the Total Charges in No. 1 and No. 2, showing Total Savings by Canal.

	Cotton.	Wool.	Sugar (Loaves).	Sugar (Raw).	Bacon.	Tinned Meats.	Tea.	Wheat.	Oranges.	Petroleum.	Tallow.	Iron Ore.	Timber.
	s. d.	s. d.	s. d.	s. d.	s. d.	s. d.	s. d.	s. d.	s. d.	s. d.	s. d.	s. d.	s. d.
Present cost....	13 8	16 5	17 11	12 2	15 0	17 5	18 2	9 11	15 0	14 5	13 6	6 11	9 5
Cost by Ship Canal.....	7 0	7 9	6 8	4 11	6 7	8 0	8 7	4 10	6 2	5 11	5 10	2 10	4 9
Saving per ton..	6 8	8 8	11 3	7 3	8 5	9 5	9 7	5 1	8 10	8 6	7 8	4 1	4 8

MANCHESTER GENERAL

Copy of Plan handed to me by Mr. E. Leader Williams,
at Manchester, 30th January, 1891.

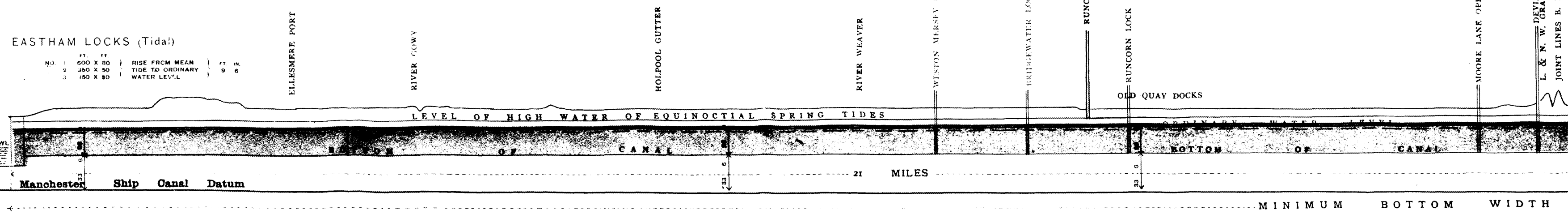
THOMAS MONRO,
M. Inst. C. E.



MANCHESTER AND SALFORD DOCKS.
 AREA OF WATER SPACE 114 ACRES.
 LENGTH OF QUAYS 5 1/4 MILES.
 AREA OF QUAY SPACE 152 ACRES.

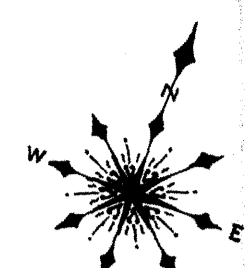
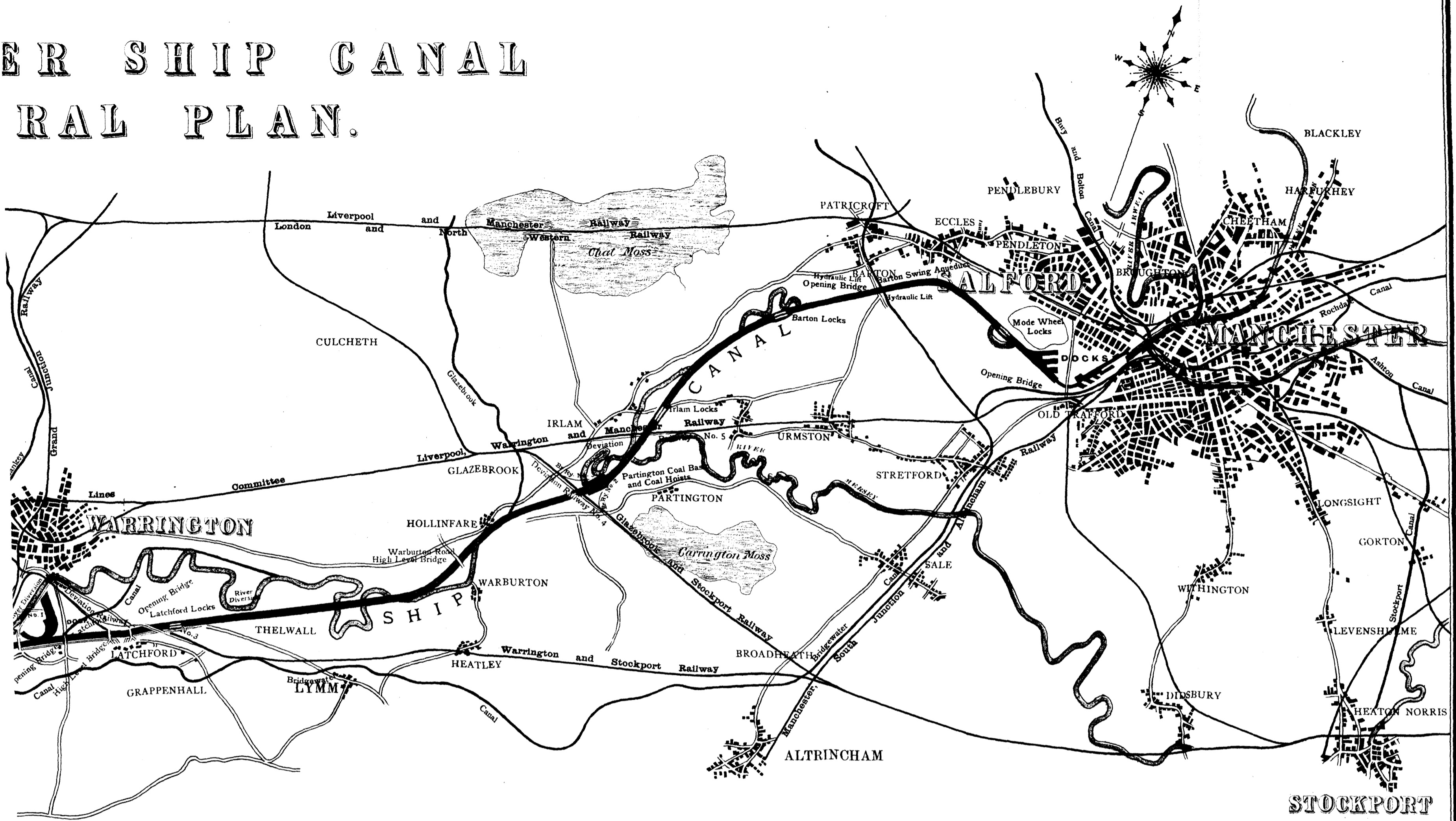
WARRINGTON DOCK.
 AREA OF WATER SPACE 23 ACRES.
 QUAY FRONTAGE 1 1/4 MILES.

To accompany Mr. E. Leader Williams' Paper read at the
4th International Conference on Inland Navigation.



L. & N. W. PENYTON RAILWAY NOS. 1 & 2
 JOINT LINES R. L. & C. JUNCTION RAILWAY

MANCHESTER SHIP CANAL GENERAL PLAN.



Vertical Scale for Section

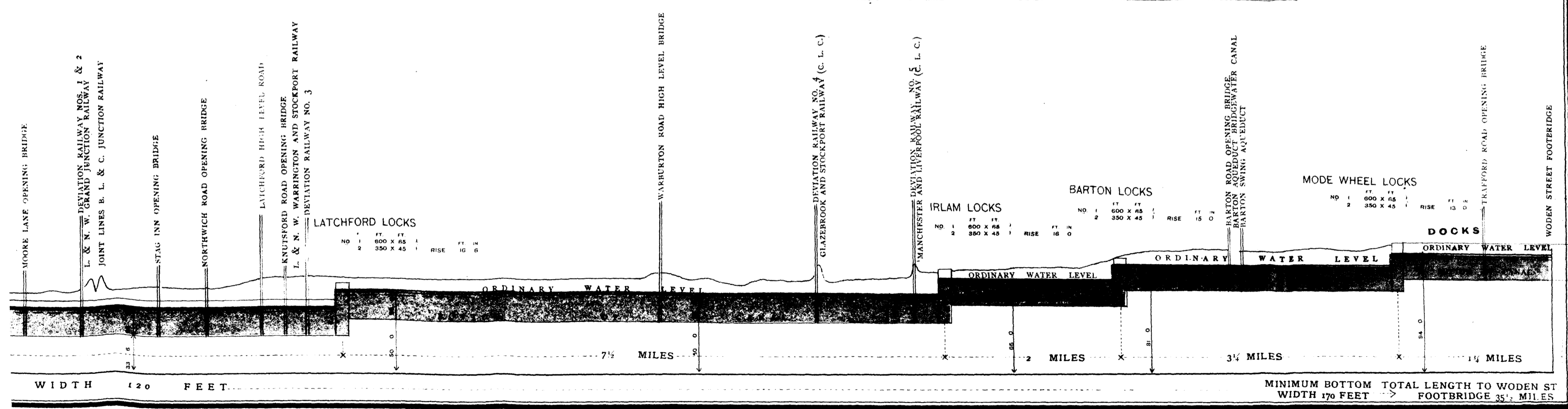


Scale for Plan and Horizontal Scale for Section



Engineer's Office,
Manchester Ship Canal,
Manchester, July, 1890.

LONGITUDINAL SECTION



WIDTH 120 FEET

MINIMUM BOTTOM TOTAL LENGTH TO WODEN ST
WIDTH 170 FEET FOOTBRIDGE 35 MILES

RETURN

(62*g*)

TO AN ORDER OF THE HOUSE OF COMMONS, dated the 27th May, 1891 :—For a statement showing all expenditure, and a return of all reports and plans of government engineers, if any, in connection with the Soulanges Canal from 1873 to 1889, exclusively, and from 1889, inclusively, to June, 1890 ; also a return of all plans and specifications made by engineers and completed by them at the said date, June, 1890, in relation to the said Soulanges Canal.

By order.

J. A. CHAPLEAU,
Secretary of State.

DEPARTMENT OF RAILWAYS AND CANALS, 20th July, 1891.

Statement of expenditure on account of the Soulanges Canal up to and including 27th May, 1891, \$29,823.14.

L. SHANNON,
Accountant.

OTTAWA, 25th January, 1891.

The Right Hon. Sir John A. Macdonald,
Minister of Railways and Canals.

SIR,—I have the honour to submit the following report on the proposed canal between Lake St. Louis and Lake St. Francis for the passage of vessels drawing 14 feet of water.

During the past two years there has been obtained by means of careful examinations, detailed surveys and estimates of cost, conducted and furnished by Mr. Thomas Monro, an engineer of this department, a large amount of information in supplement to the data gathered on the subject in 1872-73 and 1874 under the direction of Mr. John Page, chief engineer, and Mr. G. F. Baillairgé, assistant chief engineer. These examinations have dealt with both the north and south shores of the St. Lawrence, covering all the practicable routes on either side. The earlier examinations were made with a view to a 12-foot navigation, those of Mr. Monro apply to the enlarged scale of 14 feet.

It is not necessary in this report to do more than summarize the results of the work performed by these engineers, and to state the general conclusions to which I have been led in the matter.

Lake St. Louis is 15½ miles in length, and lies at the confluence of the Rivers Ottawa and St. Lawrence; Lake St. Francis, an expansion of the St. Lawrence, is about 33 miles long. The distance between these two lakes is about 15½ miles. It comprises three rapids, the Cascades, the Cedars and the Coteau, each about three miles long, the difference in level between the two lakes being 82½ feet.

These rapids are frequently run by downward bound passenger steamers; vessels ascending pass through the Beauharnois Canal, on the south side of the river. The Beauharnois Canal is a little over 12 miles in length, with a depth of 9 feet over the sills of the locks. It was completed in 1845.

For the purpose of uniting these two lakes by means of a canal of the larger dimensions now proposed, three schemes are open for consideration.

(1.) The enlargement of the present Beauharnois Canal.

(2.) The construction of an altogether new canal and structures alongside of the present Beauharnois Canal.

(3.) The construction of a canal on the north side of the river St. Lawrence.

Dealing with these three schemes, it may be observed as follows:—

To enlarge the canal and at the same time to keep it open to navigation during the summer months is attended with grave difficulties.

The building of structures in the winter season should be avoided if possible.

It would be preferable and less costly, in most cases, to build an entirely and separate work.

To the ordinary difficulties to be met in dealing with the Beauharnois Canal, whether by way of enlargement or by the construction of an entirely new work, there is superadded one which has been revealed by test borings, a large number of which have been made in order to ascertain the nature of the material to be excavated.

Referring to the borings made in the line of the channel at the Valleyfield entrance and also along a line surveyed to Knight's Point to the westward of the present entrance, as well as in the Beauharnois Canal itself as far as St. Timothy, Mr. Monro, says:

"The general character of the excavation may be described as consisting of layers of boulder stones and clay overlying what appears to be a mixture of quicksand and clay in varying proportions. In many cases the drill after penetrating with difficulty the crust of boulders, stones, &c., went down freely to a depth of about 25 feet below low water mark, showing a soft and unreliable bottom. Experiments made with this material proved that it does not stand at any slope, however flat, under water. To attempt its removal to the depth required to obtain a channel suitable for a 14 feet navigation in such a position, would be a formidable if not impracticable undertaking. The amount which would certainly slide in from the sides could not be even conjecturally estimated, whilst it might prove impossible to maintain the required depth at any cost. To keep vessels off the contiguous shoals in heavy weather, it would be advisable to protect the side of the channel with piles on cribwork backed up by the excavation from the cut—but the cost of such a plan could not be approximately estimated."

An element of uncertainty is thus introduced the effects of which in working on the basis of a 14 feet navigation it would be impossible to forecast. It must be noted that no test of actual construction or excavation has so far been made, the height of water requisite enable vessels to approach the present Valleyfield entrance having been secured by the construction of dams closing the south channel of the river and thereby raising the level of the water above; an operation which entailed the payment of compensation for flooded lands to the extent of over \$400,000.

The cost of a channel of approach suitable to vessels of 14 feet draught, and of the works necessary to protect it from slides is estimated, so far as any estimate can be formed when dealing with so uncertain a material as quicksand, at from \$850,000 to \$1,250,000, and this must be added to the cost of the canal. The cost, serious as it would be, is, however, only secondary to the more important question of the practicability of constructing such a channel and works under the circumstances.

Plans and estimates have, however, been prepared showing two schemes for a canal on this south side. Turning then to the alternative of a canal on the north shore, such undoubted advantages are presented that decision is inevitably led in this direction.

These advantages may be summarized as follows:—The direct continuance on the north shore of the present St. Lawrence Canal system and of the deep water channel of Lake St. Francis carries with it the avoidance of the double crossing of the River St. Lawrence above and below the three rapids named.

The westerly crossing at the head of the rapid is one of danger, the risk being enhanced in the presence of a westerly wind sweeping down the lake.

The western entrance to the proposed north side canal would be in a convenient, safe, and easily approached bay—Macdonald's Bay.

At this western entrance very little ice forms.

The eastern terminus would also be favourably situated. The material to be excavated is mainly clay, and the engineering difficulties to be met with are few and of no serious character. The experience of several years has shown that the formation of ice is certainly no greater barrier to navigation at this eastern entrance (the Cascades) than it is on the opposite south shore at the eastern entrance of the present Beauharnois Canal.

Several routes on this north side have been surveyed and proposed; the main distinction being the use or the avoidance of the river for certain sections of the navigation. It may, however, be now definitely stated that the utilization of any portion of the river stretches is open to so serious objections, more specially in view of the size of the vessels now employed, that no scheme containing this feature should be entertained.

As the result of most careful observation and consideration, a route has now been planned which would give an inland canal about $13\frac{1}{2}$ miles in length between Macdonald Point, Lake St. Francis, and Cascades Point, Lake St. Louis; constructed on the most direct line obtainable; with six lift locks and one guard lock. The upper entrance, at Macdonald Point, easy of access from the Lake St. Francis deep water channel, protected from winds, and almost entirely free from ice during the winter; the channel from the lower entrance to Lake St. Louis being amply wide and deep.

The estimated cost of the works on the north and south shores, respectively, according to the most approved routes, is as follows:—

(1.)—Seven lock line through Valleyfield.	\$4,450,000	
Conjectured cost of making a channel from entrance to deep water, Lake St. Francis	\$1,250,000	
		\$5,700,000

South side.

(2.)—Seven lock line with terminus at Knight's Point. (Two routes, each utiliz- ing the central portion of the existing canal for a distance of about $8\frac{1}{4}$ miles)... .	\$4,600,000	
Conjectured cost of making a channel from Knight's Point to deep water, Lake St. Francis.....	\$850,000	
		\$5,450,000

North Shore.

Seven lock line including purchase of land for right of way, &c.....	\$4,750,000
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For the reason above given, I cannot recommend that the new canal be constructed on the south shore, and I advise in general terms, after full consideration of the whole matter that approval be given to the scheme for its construction on the north shore, by the route, as shown on the plan prepared by Mr. Monro, between Macdonald Point, near Coteau Landing, and Cascades Point; subject to such modifications in detail as may appear desirable; the locks to be of the dimensions adopted for the enlarged canals of the Dominion, namely, 270 feet long and 45 feet wide, with a depth of water sufficient to pass vessels drawing fourteen feet. The width of the canal at the bottom would be 100 feet.

I submit various reports, plans of surveys, soundings, lists of borings and estimates, embodying a very large amount of information regarding this matter, as tending to explain to you the various reasons that have guided me in the conclusions I have arrived at.

As having an important bearing on the question it may be observed that the existing Beauharnois Canal, if abandoned for purposes of navigation, could be used for the extensive development of manufactories, through the supply of water power for which it would become available.

I would suggest that this new canal be called the "Soulanges," this being the name of the county in which lie the three rapids to be avoided by it.

I have the honour to be, sir, your obedient servant,

T. TRUDEAU,

Deputy Minister of Railways and Canals, and Chief Engineer of Canals.

RESULT OF BORINGS AT THE VALLEYFIELD ENTRANCE OF THE BEAUHARNOIS CANAL, BY T. MONRO, C.E., 1ST NOVEMBER, 1890.

COTEAU LANDING, 1st November, 1890.

SIR,—As instructed by the Deputy Minister, arrangements were made last month to go over a part of the borings of September, October, November, 1889, for the purpose of showing such engineers as might be sent there, the nature of the bottom of the Valleyfield entrance to the Beauharnois Canal.

A scow and crew were obtained, and operations carried on under the supervision of my assistant Mr. E. Deniel, whose report is hereto appended.

From this it appears that Messrs. Rubidge & Parent have visited the drill scow and examined samples of the material. It is to be clearly understood however, that the information thus obtained, although doubtless affording a fair idea of the bottom at the place where the scow then happened to be, cannot be taken to in any way modify or affect the general result of the borings made last year; a copy of the notes relating to which are hereto appended.

The examination was carefully carried out with proper equipment in the manner described in my second report on the St. Louis, St. Francis Canal, dated 18th June, 1890 (page 25). During the progress of the work the drill scow was visited by the late Mr. Page (1st November, 1889), who expressed himself satisfied with the manner adopted to obtain the facts as specially requested by his note to me dated 9th August, 1889. I frequently visited the work whilst in progress; and Mr. Deniel laid out the lines and directed the placing and labelling of the samples which are now preserved at this office. Further, the person in charge of the drill scow (Mr. James Wright) had had large experience in dredging work of various kinds and is considered to be capable and trustworthy. He was employed on the Montreal Harbour, at Green's Point, on the Ottawa, &c., and is now employed on the St. Lawrence Canals where he can be readily got at to prove all the facts in reference to the nature of the bottom stated in the notes above referred to.

The deductions which I have drawn from these facts are of course open for discussion; but I again state that in my opinion, after a careful study of the whole subject it would not be possible to do more than roughly conjecture the cost of forming a channel of entrance in the position shown on the plans of Valleyfield, suitable to the wants of a fourteen foot navigation, whilst the cost of the maintenance through such material could not be approximated.

On this point I beg to refer to the note appended to the record of the drill scow which embodies my views on this subject, which, in relation to the question of construction, is one of paramount importance.

I am, sir, your obedient servant,

THOMAS MONRO,

M. Inst. C. E.

A. P. BRADLEY, Esq., Secy. Railways and Canals, Ottawa.

COTEAU LANDING, Quebec, 1st November, 1890.

SIR,—I have the honour to report upon the work done by the drilling scow in Valleyfield Bay and to ask for instructions regarding future operations.

The scow has been at work since the 29th of September, and a number of holes (about 50) have been bored, about 100 feet apart, to the depth of 17 feet below low water, on two lines, one being the centre line of the enlarged channel, the other being parallel to it and about 150 feet to the north.

These borings extend from the entrance of the Canal to the lighthouses.

Nothing new has come to light as a result of this last investigation, and the samples, which have been preserved, are identical to those that were obtained last year.

Messrs. Parent and Rubidge have both been on board the scow and have seen the samples and the *modus operandi*.

The most favourable season for work of this kind is now over. Last year the boring operations in the Bay had to be suspended about this time. I therefore beg respectfully for instructions with regard to the continuance of this work.

The money expended up to date amounts to \$350.

I have the honour to be, sir, your obedient servant.

E. DENIEL.

THOMAS MONRO, Esq., M. Inst. C.E., Coteau Landing.

RESULT OF BORINGS AT VALLEYFIELD—ENTRANCE OF BEAUHARNOIS CANAL.

(Taken from Records of drill scow kept by James Wright.)

No. of Point on Plan.	Description.
1	Water, 11' 11" on sill of lock; depth at hole, 13'; no rock at 20'; made four holes with same result.
2	1,000' west of lock—12' 0" on sill; depth of water at hole, 12' 3"; struck rock (or supposed to be) at 16'; went down 18'; material on top of rock: stones and hard pan.
3	2,000' west of lock—11' 11" on sill; depth at hole, 11' 6"; hard pan at 15'; rock at 16' 8"; depth of hole, 18'; material on top: same as No. 2.
4	3,000' west of lock—11' 11" on sill; made four holes; no rock at 19'; depth of water at hole, 12'; material over rock: stones, clay and gravel.
5	30' south of black buoy—water on sill, 11' 10"; water at hole, 11' 6"; 2' of soft stuff on top; remainder hard pan, boulders and stones; went down 18'.
6	240' north of first red buoy—water on sill, 11' 10"; water, 11' 6" at hole; 3' hard pan; 2' clay or sand; 2' of hard pan; depth of hole, 18' 6".
7	70' north of second red buoy and 20' east—water on sill, 11' 10"; depth at hole, 12'; 1' of soft mud; 3' small stones and sand; 2' sand or clay; 1' of hard pan; depth of hole, 19'.
8	40' north of third red buoy—water on sill, 11' 9"; depth of water at hole, 11'; 3' small stones and mud; 6' of quicksand; depth of hole, 26'; drill passed freely.
9	About 460' north of red light on Knight's Point—water on sill, 11' 9"; water at hole, 10' 6"; 4' small stones; 4' quicksand.
10	38' south of small lighthouse on pier (No. 3); water on sill, 11' 10"; water at hole, 8'; 5' stones and sand; 6' quicksand; depth of hole, 19'.
11	At lighthouse—water, 9'; 4' small stones; 5' quicksand; depth, 18'.

RESULT OF BORINGS AT VALLEYFIELD, &c.—Continued.

No. of Point on Plan.	Description.
12	North of long pier, opposite No. 3 light—
13	North of pier, opposite buoy No. 5—
} Water, 11'; 4' small stones; 3' quicksand; depth of holes, 18'.	
14	Water on sill, 12' 00"; hole, 200' south of No. 3 lighthouse—water at hole, 6'; 4' stones, sand and clay; 4' sand; 5' quicksand; hole, 19'.
15	Water on sill 12' 1"; hole, 200' south of buoy No. 5—water at hole, 8'; 3' stones and sand; 7' of quicksand.
16	On Knight's Point line, 875' from buoy No. 5 to south—water on sill, 12' 2"; depth of water at hole, 9' 0"; 2' of small stones; 8' sand and quicksand; drill passed very freely.
17	On Knight's Point line, 300' west of lighthouse No. 2—water on sill, 12' 2"; depth at hole, 10'; 3' of stones; 5' 6" quicksand; drill passed freely.
18	On Knight's Point line, 250' from No. 2 lighthouse—water on sill, 11' 10"; depth at hole, 4' 9"; 4' stones and soft mud; 10' small stones and quicksand.
19	On Knight's Point line—water on sill, 11' 10"; 700' south of No. 3 light—depth of water at hole, 5'; boulders on top; 5' of stones and sand; 5' hard pan; 3' soft material.
20	About 200' west of 19' on Knight's Point line—water on sill, 11' 8"; water at hole, 8' 6"; 4' small stones, clay and sand; 6' softer material (two holes).
21	About 200' west of 20' on Knight's Point line—water on sill, 11' 11"; water at hole, 12' 6"; boulders on surface; 6' small stones and sand (six holes); quicksand; drill passed very freely.
22	130' south of centre line on Knight's Point—water on sill, 11' 9"; water at hole, 14' 6"; boulders on top; 4' of small stones, clay and quicksand; depth of holes, 18' 6"; six holes.
23	150' south of No. 20 on Knight's Point line—water on sill, 11' 10"; water at hole, 7'; boulders on top; 5' of small stones with sand and clay; 6' of softer material, felt like quicksand; depth of hole, 18'; drill passed freely after 5' at some of the holes; (five holes,) and next day one hole.
24	Water on sill, 11' 10"; boulders on top; 5' of small stones and quicksand; 6' of softer material, felt like quicksand; water at holes, 7'; first 5' drill went very hard; 6' below went quite freely; depth of holes, 18'; could not get tube down; too many stones.
25	Boulders on top; water at hole, 6'; 6' of small stones with clay and quicksand; 6' of quicksand; put tube down to 17' 6"; got a good sample of the material; water on sill, 11' 10".
26	150' south of hole No. 17, Knight's Point line; water, 8'; boulders on top; 5' of small stones, with clay and quicksand; 5' of quicksand; depth of holes, 18'; put down tube to 17'; Material, quicksand; water on sill, 11' 10".
27	150' south of hole, 18'; water, 5' at hole; boulders on top; 6' of small stones with clay and sand; 4' of quicksand; 3' of hard pan; drill went very hard; sill, 11' 10".
28	150' north of hole 17, Knight's Point line—water at hole, 9'; 3' of soft mud; 3' of small stones, clay and sand; 3' of quicksand; put tube down to 18'; at three holes it went very freely; made 6 holes.
29	150' north of hole No. 16—water, 9'; 3' small stones, clay and hard pan; tube down to 17'; quicksand; several holes.
30	150' north of hole No. 19, Knight's Point line—6 holes made; water, 6' at holes; boulders on top; 5' of stones, clay and sand; 7' of quicksand; put down tube to 18' at two holes.

RESULT OF BORINGS AT VALLEYFIELD, &c.—*Continued.*

No. of Point on Plan.	Description.
31	150' north of hole No. 20, Knight's Point line—water, 9' at holes; boulders on top; 4' of stones with clay and sand; 5' of quicksand; put down tube to 18'; it takes from ten minutes to one hour to make a hole, one man striking with an 8-lb. hammer.
32	Water on sill, 11' 10"; water, 13' at holes; 2' of soft mud with stones; 3' of quicksand; put tube down to 18' at three holes.
33	55' south of upper pier at No. 4 lighthouse, 50' west of lighthouse—water, 11' 6"; boulders on top; 4' of stones with clay and sand; 3' of quicksand; put tube down to 18' at two holes.
34	200' east of No. 33 on same line—made six holes; water, 10' 6"; boulders on top; 4' of stones with clay and sand; 4' of quicksand; put tube down to 18' at two holes.
35	150' west of No. 3 light, 150' north of same—water, 13'; boulders on top; 3' of stones with clay and sand; 2' of quicksand; made six holes; put tube down to 18' at two holes.
36	50' east of No. 3 light, 150' north of same—water, 9' 6"; boulders on top; 4' 6" of small stones, clay and sand; 4' of quicksand; made six holes; tube down to 18'; water on sill, 11' 7".
37	200' east of No. 36 on same line—water, 6' 6"; boulders on top; 5' of stones, clay and sand; 6' 6" of quicksand; made six holes; put tube down to 18' at three holes.
38	200' east of No. 37 on same line—water, 11' 6"; boulders on top; 1' of soft mud; 3' of stones, clay and sand; 2' 6" of quicksand; tube down to 18' at three holes; water on sill, 11' 7".
39	300' south of hole No. 38—water, 11'; water on sill, 11' 9"; 1' of soft mud; 6' of boulders, stones, sand and clay; made six holes, 3' 18" and 3' 16" deep; could not get the tube down; too many stones.
40	Water on sill, 11' 9"; made six holes; water, 6'; boulders on top; 6' of stones, clay and sand; 6' of quicksand; could not get tube down; too many stones.
41	300' south of hole No. 35—water, 7'; boulders on top; 5' of stones, clay and sand; 6' of quicksand; put tube down to 16' 6" at one hole.
42	200' west of No. 41 on same line—water, 12'; boulders on top; 3' of stones, clay and sand; 3' of quicksand; put tube down to 18' at two holes; made six holes.
43	300' south of No. 34—water, 12'; boulders on top; 3' of stones, clay and sand; 4' of blue clay; put tube down to 19' at two holes; made six holes.
44	325' north of buoy No. 4, 76' east of same—water, 13'; boulders on top; 3' of stones, clay and sand; 4' of fine sand and quicksand; put the drill down to 20'; tube to 19'; made six holes.
45	Water on sill, 11' 6"; made six holes; water, 8' 6"; boulders on top; 4' of stones, clay and sand; 6' of sand and quicksand; put tube down to 18' at two holes; drill down to 26' at one hole; struck something hard (rock).
46	200' east of No. 45 on centre line—made six holes; water, 6'; boulders on top; 5' of stones, clay and sand; 6' of sand and quicksand; put tube down to 18' 6" at two holes; drill down to 25' 2"; it went freely; made six holes; water, 11' 6" on mitre sill. Note.—Something hard (rock) struck at 25' 2".
47	Water on sill, 11' 6"; made six holes at No. 47; water, 12' 6"; boulders on top; 3' of stones, clay and sand; 3' of sand and quicksand; put tube down to 18' 6" at two holes; drill down to 26' at one hole.
48	150' north of No. 47—made six holes at No. 48; water on sill, 11' 4"; water, 6'; boulders on top; 6' of stones, clay and sand; 6' of sand and quicksand; tube down to 18'.

RESULT OF BORINGS AT VALLEYFIELD, &c.—*Continued.*

No. of Point on Plan.	Description.
49	350' north of buoy No. 3, 200' east of hole No. 48—water, 14'; boulders on top; 2' of stones, sand and clay; 2' 6" of quicksand; tube down to 18' 6"; made six holes.
50	200' west of buoy No. 2 on centre line—water, 12' 6"; boulders on top; 3' of stones, clay and sand; 3' 6" of quicksand; tube down to 19'; drill down to 24' 9"; made six holes.
51	190' north of buoy No. 2—water on sill, 11' 6"; Water, 13'; boulders on top; 1' of soft mud; 3' of clay, stones and sand; 1' 6" quicksand; tube down to 18' 3"; drill down to 23'; made six holes.
52	Water on sill, 11' 7"; made six holes; water, 12' 6"; boulders on top; 3' of stones, clay and sand; 3' of quicksand; tube down to 18' 6".
53	200' east of No. 52 on same line—water, 13'; boulders on top; 1' of soft mud; 2' of stones, clay and sand; 2' of quicksand; tube down to 18' 3"; made six holes.
54	2,900' west of guard lock—water on sill, 11' 10"; water at hole, 10' 6"; 6' 6" of boulders, stone, clay and sand; rock at 17'; tube down to 17'; made eight holes on same line 30' part east of No. 54; rock at 12' at last hole.
55	Water on sill, 11' 8"; 2,600' west of guard lock; water, 11'; 1' of loose stones and mud; 6' of rock; put steam drill down to 18'.
56	2,500' west of lock—water, 11'; 1' of stones and mud; rock at 12'.
57	2,400' west of lock—water, 11'; 1' of stones and mud; rock at 12'.
58	2,300' west of lock—water, 11'; 1' of stones and mud; rock at 12'.
59	2,200' west of lock—water, 11'; 6" of mud; rock at 11' 9"; made three holes 30' apart.
60	2,100' west of lock—water, 11' 6"; 2' 6" of stones, clay and sand; rock at 14'; made three holes 30' apart.
61	1,900' west of lock—water, 11' 6"; 2' 6" of stones, clay and mud; rock at 14'; made three holes 30' apart.
62	1,800' west of guard lock—water, 10' 6"; 6' of stones, clay and sand; rock at 16' 6"; made three holes 30' apart.
63	1,700' west of lock—water, 10' 6"; 5' 6" stones, clay and sand; rock at 16'; made three holes.
64	1,600' west of lock—water, 10' 6"; 2' 6" of stones, clay and sand; rock at 13'; made three holes 30' apart.
65	1,500' west of lock—water, 10' 3"; 1' 9" stones, clay and sand; rock at 12'; made three holes 30' apart.
66	1,400' west of lock—water, 11'; 4' 3" of stones, sand and clay; rock at 15'; made three holes 30' apart.
67	1,300' west of lock—water, 11'; 4' of stones, clay and sand; rock at 15'; made three holes.
68	1,200' west of lock—water, 12'; 4' of stones, clay and sand; rock at 16'; made three holes.
69	1,100' west of lock—water, 11' 6"; 5' 6" of stones, clay and sand; rock at 17'; tube down to 17'; made three holes 30' apart.
70	1,000' west of lock—water, 12'; 6' of stones, clay and sand; rock at 18'; made three holes.

RESULT OF BORINGS AT VALLEYFIELD, &c.—*Concluded.*

No. of Point on Plan.	Description.
71	900' west of lock—water, 12' 6"; 5' 6" of stones, clay and sand ; tube down to 18'.
72	800' west of lock—water, 12' ; 6' of stones, clay and sand ; depth of holes, 18'.
73	700' west of lock—water, 12' ; 6' of stones, clay and sand.
74	600' west of lock—water, 11' ; 7' of stones, clay and sand.
75	500' west of lock—water, 12' ; 6' of stones, clay and sand.
76	400' west of lock—water, 12' ; 6' of stones, clay and sand ; depth of holes, 18' ; made three holes at every number 30' apart.
Moved scow through lock, 11th November, 1889.	

The notes are taken from the foreman's diary on board the drill scow.

From the foregoing it will be seen that the whole of the area examined, and forming the Valleyfield entrance to the Beauharnois Canal, consists of boulders on top of various sizes and in varying thickness of bed. Under these are smaller stones and then clay or sand, underlying which appears to be a heavy layer of what is described as quicksand ; where the drill pierced to a depth of about 25 feet below the present water surface, some hard substance was struck, which is surmised to be rock. It is to be observed that the order of gravity in the deposit, or what would appear to be the natural relative positions of the material, is reversed, the heaviest being on top. This would obviously have the effect of caving in the sides to an extent which cannot be calculated in case an attempt were made to sink the bottom of an artificial channel to the depth of say 6 feet below the present bottom.

This condition of things frequently occurs in the "drift" formation, and has doubtless caused the slides which have taken place along the banks of the north shore of the St. Lawrence between Coteau Landing and the Cascades. What is described as quicksand by the foreman may not be exactly that material. But at all events it runs down flat when mixed with water, and could not be depended upon to assume any fixed slope, no matter how flat, in the sides of an excavation through it of the size and position of the enlarged channel now contemplated. That is to say, no reliable estimate could be made of the quantity which it would be necessary to remove to obtain the required depth—even supposing the bottom would not be pushed up by the weight of the boulder covered sides which would be a very probable occurrence.

THOMAS MONRO.

10th December, 1889.

COTEAU LANDING, 19th Sept., 1890.

SIR,—As requested, I have prepared a copy of my Report on the proposed St. Louis, St. Francis Canal, addressed to the late Chief Engineer on the 15th June, 1889.

I also beg to submit an additional Report on the same subject which was nearly completed at the time of Mr. Page's death ; and is intended to embody the results of the more extended information obtained in the interval between the date of first Report and the 18th June, 1890.

These documents are accompanied by a general plan and profile and eight other drawings on larger scales which will, it is believed, clearly illustrate the views discussed in the Reports.

There are several diagrams, tables &c.,—also a list of the borings, prepared and ready for examination in connection with the matter which will doubtless be of material service in enabling a decision to be arrived at on the whole question.

I am, sir, your obedient servant,

THOMAS MONRO.

M. Inst. C. E.

A. P. BRADLEY, Esq., Secretary Railways and Canals, Ottawa.

SECOND REPORT—ST. LOUIS—ST. FRANCIS CANAL.

(Addressed to the Secretary, dated 18th June, 1890.)

COTEAU LANDING, 18th June, 1890.

SIR,—In further reference to the question of the location of a canal for fourteen-foot navigation between Lakes St. Louis and St. Francis, I beg to report as follows:—

The general principles mentioned in my report of the 15th June, 1889, addressed to the late Chief Engineer, have been adhered to in the selection of the line now proposed; and the reasons already given for this course appear, after extended study and observation, to be quite valid.

The natural termini of an inland canal on the north shore between Lakes St. Louis and St. Francis are at the foot of the Old Cascades Canal on the Ottawa River; and in the bay to the west of Macdonald's Point just below the village of Coteau Landing.

A straight line drawn on the map between these points measures nearly 13 miles. The shortest practicable canal line must, however, sweep round the great bend of the River St. Lawrence at Coteau du Lac, and thence strike almost directly for the Cascades terminus. This line is about $13\frac{3}{4}$ miles from shore to shore; and there does not seem to be any sufficient reason why it should be departed from.

It may be described somewhat in detail as follows:—(See General Plan and Detail Plan No. 1.)

The projected entrance at Macdonald's Point has its centre line so arranged that when the works are completed, vessels can easily make the canal from the deep water of the north channel of Lake St. Francis. This channel, immediately to the west, has a direction of about N. 60 E. To get into the canal the course would be gradually changed to N. 30 E. The entrance piers are placed 200 feet apart, and so as to embrace an indentation in the bottom of the bay, which at one point brings deep water within 750 feet of the shore. This will reduce the dredging quantities. The shoal marked "A" outside will have to be removed. The piers will be about 25 feet wide and the same height. The south pier to project 1,100 feet from the shore line. The material, as found by the borings, is soft clay overlying hard gravel. The results are shown on the accompanying Detail Plan. This gravel can be used to fill the cribs. The clay arising from the excavation of the entrance channel and a part of the prism of the canal can be deposited in rear of the south pier. This will make about 4 acres of ground, the outer or river side of which can be protected by boulders from the pit for the Guard Lock and to the eastward. The formation of this mole will have a tendency to improve the steamboat channel by giving a more uniform direction to the current between Macdonald's Point and McIntyre's Island. A considerable area of comparatively still water will thus be created at the head of the canal and will enable vessels to enter at all times with ease.

The channel to be 200 feet wide and $16\frac{1}{2}$ feet deep at extreme low water. It may not be considered necessary to pier the north side at present. Whilst executing the works, a portion of the natural ground can be left in such position across the line of canal as may be considered best, so as to shut off the water of the lake whilst the Guard Lock, Supply Weir, &c., are being constructed, and thus reduce the cost of unwatering. The position of the Guard Lock is in a great measure fixed by the intersection of the

Canada Atlantic Railway with the canal line. It is placed west of this point, as such a location best suits the contemplated arrangements at the entrance. The line of the canal and railway cross each other nearly at right angles; and the grade of the latter is about 17 feet above the level of the lock coping. The distance of over 1,100 feet between the intersection and the north abutment of the Coteau Bridge will permit of the erection of a temporary trestle work with easy curves alongside of the line of permanent track. This can be made to safely accommodate the railway traffic whilst the erection of the swing bridge at the lower end of the Guard Lock is being carried on. This bridge is shown with a length of superstructure of about 200 feet, so as to swing over the canal and raceway from the supply weir (see plan). The length above stated (1,100) is amply sufficient for an ordinary passenger train to stand on, which is an important point in the safe working of the railway, in such position, between the draw-bridges. The main road can be diverted so as to cross over an extension of the upper wings of the Guard Lock and resume its present line in the shortest distance possible. This will leave the lots to the south of the road in the same accessible position as before and have a tendency to lessen damages. This road will not cross the canal again until near the east or Cascades end, where it is called the "Quinze Chiens."

The raceway to the supply weir to be taken off the entrance in the manner shown. It should be about 80 feet wide. This weir to have twelve openings 4 by 4 through the breast. The discharge through these, under the least possible head, at the levels adopted, would be amply sufficient for the working of the canal. The tail race from the weir to be arranged as shown.

As stated in my previous report, it is believed that if these structures were grouped together there would be a considerable saving in their aggregate cost. The stone for backing and minor structures could be delivered by rail; also the timber, iron work, &c., &c., both cheaply and expeditiously. Besides, when this point is passed, there would be no obstruction to the rapid transit of vessels through the canal as far as lock No. 6, a distance of over eleven miles.

The foundations at the entrance will be in blue clay mixed with boulders as shown by the results at test pit No. 1.

It will be observed that the line passes through the small English Church. There is no cemetery attached to it, and there does not appear to be any objection to its removal. It might, if thought desirable, be erected on the point, to the south of the canal, and close to the parsonage—the ground immediately around the latter not being necessarily required for the purposes of the canal. The line of the entrance should be continued inland for about $1\frac{3}{4}$ miles. This tangent would touch the margin of the river in the bay opposite Felix Guertin's house, the south bank of the canal being widened to form the public road as shown. The water near the shore is not deep here, but the current is swift, and a large amount of material might be disposed of. The whole of that portion of the line embraced in detail plan No. 1, is in cutting, which at one point on S. Filiatreault's farm is about 34 feet deep, but rapidly diminishes to the eastward to about 18 feet at 0.700. The total quantities are given in the subjoined approximate estimates. The calculations for the road bridge, guard lock, supply weir, railway bridge, &c., are based upon sketches of structures of the usual dimensions. The foundations of the supply weir, are carried down to the same level as those of the guard lock; although this may not be considered necessary.

Low water line of Lake St. Francis is usually taken at 10' 6" on the mitre sill of the guard lock at Valleyfield. The records, 1874-1889, show only one day on which it was down to 10' 8" during navigation season. This year the water is so far very high, reaching 14' 2" on the 23rd January, and again on the 17th May. The general height is about 12 feet. The levels are, however, arranged so that the bottom of the canal as projected on the north shore shall afford a depth of 15 feet when there is only 10 feet on the mitre sill of the lock above referred to. Careful levels have been taken, and simultaneous observations made on both sides of the river, to enable the facts in this connection to be fully and satisfactorily established. The amount of obstruction to the flow of the river caused by the piers of the Canada Atlantic Railway Bridge has not

been determined. But there is no doubt that this will have a tendency to keep the general level of the lake somewhat higher than heretofore. At lowest recorded water there would be 0.66 feet head on the openings through the supply weir, but the summit level of the canal might be kept at mean level of the lake when practicable.

The location of the line as shown on detail plan No. 1, will necessitate the removal of the several farm houses and buildings along the main road. This cannot, in any case, be avoided—and the question does not seem to be of sufficient relative importance to warrant any change on that account.

The material arising from the heavy cutting on the first mile of canal from Macdonald's Point should be chiefly spoiled at each end. That east of the guard lock might be deposited along the river margin on the extensive flats in front of A. Moise Giroux's farm. It is presumed that the bulk of the excavation will be done by steam shovels and cars drawn by locomotives. In such case the question of haul is of diminished importance. In any case the earth should not be deposited along the sides of the canal. The perpetual trouble and expense necessary to keep the material from running back into the prism where large spoil heaps are formed in proximity to the edges of the cutting, warrants a little extra first outlay to avoid this.

The bay to the west of Macdonald's Point is sheltered from almost all heavy winds, and ice does not form there to any extent in winter. When the projected south pier is built an area of still water will, as stated, be formed between it and the shore, and this would induce the formation of surface ice to such an extent as would probably prevent the choking up of the valves at the entrance by "frasil" as occurred last winter at the Valleyfield guard lock.

The rates of current shown on Mr. Baillairgé's map at this bay appear to be greater than are now experienced. This may be accounted for by the difference in levels of the river as compared with those recently observed. In short it is believed that were the works carried out as designed, the bay could be made to form an excellent entrance to a canal for fourteen feet navigation.

The tangent above referred to is 8,359 feet in length from the shore at Macdonald's Point to the beginning of the long curve on Dr. Dault's farm at 0.669. This curve sweeps round the great bend at Coteau du Lac. It is about three miles long, with a radius of 14,324 feet, or for all purposes of navigation practically a straight line. It has been arranged so that the centre line passes on an average about one-quarter of a mile from the shore of the river. This will avoid encroaching upon church and village lots, and leave room for the expansion of Coteau du Lac, which is fast becoming a place of summer resort. Should it be considered better, however, to run nearer the main road, the curve can be flattened somewhat. But the proposed location is believed to be the best. The tangent to the east avoids the high and stony knoll on Felix Pilon's farm, which rises to about 37 feet above the bottom line of canal.

The curve crosses the river Delisle (see detail plan No. 2) in a favourable position, and where the channel can be diverted to enable the culvert (to pass its water under the canal) to be built without interrupting the flow of the stream—and on a rock foundation. A number of measurements, cross sections, &c., have been taken with a view of ascertaining approximately the flood discharge of this river, and a good deal of information has been obtained respecting its length, drainage area, &c., &c. From all that can be learned it appears that the freshets which occur principally in the spring, sometimes rise to a height of four and a half feet over the crown of the dam at Beaudet's grist mill; and this, taken in conjunction with the discharge at such times from the raceway to the west doubtless aggregates about 220,000 cubic feet per minute. To pass this volume at a velocity of say 10 feet per second, would require a cross sectional area of culvert of about 370 square feet. The culvert for which sketches have been made will effect this under a head of about three feet. This additional rise would, during times of heavy-flood, for a short period overflow some of the land on both sides of the river above the culvert if left as at present. But there is so much material to be wasted that the margin could be raised and arrangements made to entirely obviate this difficulty. A contour line of the water's edge when raised is shown on the detailed plan which represents,

on a scale of 100 feet to the inch, the vicinity of the crossing of the river Delisle and the proposed position of the culvert.

The river takes its rise in the township of Kenyon, in the county of Glengarry, and has a drainage area of about 180 square miles. Its direction is easterly for about 45 miles from its source to a junction with the St. Lawrence just north of the old fort at Coteau du Lac. The side slopes are generally flat—the fall of the stream not great—and a considerable portion of the upper part of its basin is wooded land, so that the freshets are neither heavy nor violent. Still a very heavy rain, such as that which occurred on the 20th May last, will cause a rise in a few hours of nearly three feet at Beaudet's mill dam. Should it be desired to lessen the effects of these freshets on the level of the river above the culvert, when built, this dam might either be entirely removed, or arranged with sluice ways through it, so that the flood waters might be passed freely. It is of rough crib work, filled with stone, about 72 feet long and five feet high—placed on a solid rock foundation which forms the bed of the Delisle at its junction with the St. Lawrence.

During the summer months of a dry season, there is, for considerable periods, practically no flow in the Delisle, and consequently no water from it to drive Beaudet's grist mill, which has four runs of stones, and used to do a considerable custom business in this vicinity. To remedy this water shortage, the proprietor, many years ago, cut a raceway from the St. Lawrence to the Delisle in the position shown on detail plan No. 2. The relative levels are such that when the water is low in the Delisle the current sets in from the St. Lawrence and supplies the mill pond above the dam. But when the water is in freshet in the Delisle the contrary action takes place, and the raceway then serves as a channel of discharge. The fall, on the St. Lawrence, between the entrance to this race and the mouth of the Delisle is, at ordinary times, about seven feet.

The site selected for the crossing is, as above stated, a favourable one. The surface of the rock is irregular, but the centre line of the culvert will be arranged to suit this level.

With reference to this structure, it will perhaps be better to make the sides of the canal nearly vertical where it passes under, in order to save length and reduce cost. The diminution of the cross-section area arising from this plan would not practically affect the flow of the canal. The sketches will show the kind of culvert proposed. Its dimensions have been deduced from the best data attainable as to the characteristics of the stream it is intended to serve.

Between the River Delisle and the head of the proposed canal the rock crops up above bottom line in two places (see profile). The first is immediately west of the river, where for a distance of about 400 feet the strata of the calciferous formation will have to be cut through to a depth at the highest point of about 12 feet. Further west, and between stations 676 and 700 or nearly half a mile, large quantities of this rock will have to be removed, the cuttings at one place being about fifteen feet deep. It is what is called elsewhere "Bastard limestone" and affords in this vicinity a good sound stone for building. It will doubtless be of much service in connection with the masonry structures, and canal, to be used, when broken, for the lining of the sides of the canal.

As will be seen on reference to the general profile, the character of the excavation to the west of the Delisle is clay mixed with boulders in varying proportions: some of it being quite hard and difficult. To the east of the river, however, the boulders almost entirely disappear, and the nature of the drift changes to clay, brown on top, with an underlying stratum of soft blue clay. The latter reaches a great thickness towards the Cascades end of the canal.

The distance between the Delisle crossing and Macdonald's Point is about $2\frac{1}{4}$ miles, so that the stretch upon which difficult excavation will be found, is restricted to less than one-sixth of the whole route.

The quantity between the Delisle and Macdonald's Point is about 1,500,000 of cubic yards of earth and boulders and about 85,000 cubic yards of rock. The latter is calculated at full side slopes of 2 to 1.

Along the left bank of the Delisle there is a road leading to St. Polycarp and the interior. It is believed that this can be diverted *via* the north bank of the new canal to a junction with the River Rouge road, and thus save one bridge crossing without injury to public travel. The latter road is crossed by the canal line about 1,600 feet from its junction with the front road. It leads back to the villages of Pont Chateau, St. Clet, &c., and the rear concessions; and is one of the principal means of outlet to the river wharves situated a short distance to the east, where large numbers of cattle, sheep, &c., are shipped during the navigation season to the Montreal market. It is for this reason, amongst others, that no matter on which side of the main road along the river the canal may be constructed, communication will have to be established and maintained across it at all the principal north and south roads, so as to secure an outlet for the wharves referred to, some of which have been constructed by the Government for the benefit of the country in the rear, and are considered of the highest importance by the people along the front also.

Examinations were made and levels taken for a line south of the main road. The results of these are shown on a separate map. It does not, after a careful examination, appear that such a line would be at all advantageous. On the contrary, it will be seen that if it were constructed through the village of Coteau du Lac, and to the east of it as shown, a large amount of damage to property would be done without any apparent gain. In short such a course would be likely to meet with great opposition from proprietors and other interests, and result in large claims—as the space necessarily occupied by the canal works would practically obliterate the village. Besides, it is considered objectionable to approach the river bank unless unavoidable, as it has slidden to a large extent in this vicinity.

It may be stated in this connection, that great damage has been done along the river bank by the action of the weather and the waves. Large points have been worn away, and the main road, which follows close to the river for a considerable distance between Coteau du Lac and Cascades Point has had to be frequently removed inland. It appears that the proprietors interested in this question are very desirous of having the material arising from the canal excavation, if constructed on the line proposed, distributed or dumped along the front, so that they can shape it into a protection or revetment. At present the water has undermined the base of the bank so that it has a tendency to assume the cliff-like shape usual under such circumstances. To slope this backwards would involve a great deal of labour and further waste of land. But in case the clay were dumped in front, it would assume the natural slope of the material, and its toe might then be secured by brush, &c., so as to make an improvement which would be of considerable value and benefit.

The long curve referred to also crosses the River Rouge in the best position in the vicinity (see detailed Plan No. 3) at station 591. The culvert can be placed with advantage, where shown. This is simply a creek which has worn itself a deep bed unto the drift clay. It takes its rise a few miles inland, and at Pont Chateau $4\frac{3}{4}$ miles from its junction with the river, it is a very small stream. It is, however, liable to spring freshets of considerable violence, but which pass off very quickly. It is difficult to arrive at the maximum flood discharge, but it is probably not more than one-half of that of the Delisle. A double arch culvert of say 10 feet span would be ample for all purposes. The ice should be boomed off on the upper side of this culvert, as there are heavy jams in the bed of the creek at the break up in the spring. This should also be done at the Delisle crossing. The side slopes of the Rouge are steep—the soil clay—and the land through which it runs for the most part cultivated, so that the freshets are, as before stated, heavy. From the shape of the valley it will, however, be seen that a rise of water which would inundate the flats above the culvert for a short time only, would be productive of little or no damage.

Between the Rivers Rouge and à la Graisse, (about $2\frac{1}{4}$ miles) the cutting is on an average about 18 feet deep, and there will be nearly a million of cubic yards of earth to excavate. Surveys were made of the flats or bottoms adjoining the Rouge (see plans) and those of à la Graisse for the purpose of locating spoiling ground, whereon advan-

tageously to deposit the greater part of this mass of clay. A large amount can be disposed of in this way and also on the principle before stated, by dumping along the shores of the bay to the west of Pointe au Diable, where the banks have slidden to a large extent, and where it would be of special benefit to bring material for their future protection.

The general question of the quantity of land required will be in a great measure determined by the mode in which the large amount of surplus material is disposed of. If it is not deposited along the sides of the canal the width otherwise necessary to be acquired to the west of the St. Fereol Road will be diminished by about one-half.

As to the question of crossing lots, and land damages generally, it will be seen on reference to the general map that any feasible line between Macdonald's Point and River à la Graisse must cross the farms in about the same position with reference to the proportion cut off from the front. But to the eastward of this there are two courses which present themselves for consideration. The first is to continue in a straight line from the east end of the curve round the bend of the river at Côteau du Lac to Cascades Point. The second is to sweep back into the interior, and follow, as far as possible, the rear line of the farms in the parish of St. Joseph. This back line is about 1,400 feet longer than that proposed; and as the ground to the south of the Chamberry Gully is several feet higher than on the direct line, the quantities of earth work would be increased about half a million cubic yards. Of course the gully is useless to spoil in, because to the east of the St. Fereol Road, there is barely enough material arising from the cuttings to form the canal embankments.

The rear line will also in many cases cross the farms near the middle. It is, however, considered by some that if the farms are large, they will suffer least damage when cut in two, because the result will be the creation of a new Concession line, and the subdivision of the property would soon be arranged to suit the altered condition of the case. However this may be, the straight line is considered the best: and the sum at which the item of land and damages is put down in the estimate appears on re-examination to fully cover the probable expenditure on this score.

To return to the River à la Graisse. As stated in my previous Report, the term "river" is a misnomer when applied to such a water course as this. It is more of an inlet from the St. Lawrence than a stream draining the country. It runs out about a couple of miles inland where it is only a ditch. A ten foot arch culvert would be amply sufficient for the passage of floods at this point. In the summer there is little or nothing to pass. As the bottom is soft it would probably be best to place the culvert where indicated on detail plan No. 4.

The St. Emmanuel Road crosses on the stretch between the rivers Rouge and à la Graisse. The road makes a fair angle with the canal line, and the level of the ground is suitable for the ordinary height of bridge floor. A single track bridge will be sufficient at this point.

The long tangent begins at 511, about half a mile to the west of River à la Graisse, and continues to 103, on the farm of Néré Moreau, at the crossing of the Bissonnette Gully—a distance of 7.71 miles. The ground in the vicinity of the gully has been thoroughly examined and cross sectioned; but there does not seem to be any sufficient reason for departing from the straight line at this place.

The St. Dominique Road crosses at station 425, but the height of the ground at that point is about a foot above low water line of the canal.

The country between St. Dominique and St. Fereol roads is quite flat. At station 375, or about midway of the canal, it is only about 1,200 feet from the St. Lawrence. Near this is a small gully discharging into the river, which might be utilized to empty the canal above lock No. 6, through a waste weir to be constructed in the south bank in about the position indicated. The level of the surface of the river opposite the gully is about 6 feet below canal bottom line. There are other points at which the canal might be tapped for a similar purpose. This would guard against having to run the whole contents of the summit level through the locks at the east end, in case it should be desired to empty the canal.

St. Fereol road bridge will have its approaches in considerable embankment.

It will be observed, on reference to the general plan, that the straight line runs in the lowest and most favourable ground between St. Fereol and St. Antoine roads. Between these points it falls about 14 feet, and this necessitates the placing of Lock No. 6 either in connection with the latter road or, which would perhaps be better, a short distance to the westward, making the bridge a separate structure. This would give a much easier approach than if combined with the lock. Between St. Fereol and St. Antoine roads the excavation would be mostly in brown clay and would be about sufficient to make up the banks (with rather long hauls) in several places. It may here be said that the land damages would be much lessened by establishing a ferry between each of the roads previously referred to. These, on the Beauharnois Canal, cost annually about \$250 each to maintain, and are freely used by the farmers, especially in harvest time.

But, as before stated, if the line of the canal pass through the parish of St. Joseph, as projected, the effect would be likely that of making a concession road along its north bank, and should future divisions of the existing properties become necessary, the canal would doubtless be made to form the line of separation, instead of the farms being split up lengthwise as at present. This tendency has, it is said, been observed on the line of the Beauharnois Canal.

Eastward of St. Antoine Road the ground still falls rapidly to the top of the west bank of the Ottawa River. It crosses the Bissonnette Gully not far from its junction with the Chamberry. The material to fill up at the crossing can be taken from the excavation of the locks to eastward. The bottom line of the projected canal is about 30 feet above that of the bottom of the gully. "The Quinze Chiens" or main road between Coteau Landing and Vaudreuil will be crossed over the extension of the upper wings of Lock No. 5. (See detailed plan No. 5, which shows the projected arrangement at the Cascades end on a large scale.)

After a full study of the ground and a careful consideration of the whole matter, it was thought best to ascend the right bank of the Ottawa, which is here about 60 feet high, in a direct line—the range of five locks being located so that a lock and reach taken together would occupy a length of about 1,000 feet.

Experience proves that this arrangement is satisfactory, even where the line is curved. The raceways alongside, when in connection with the surface of the canal, will give about 180,000 superficial feet for each reach. With an ordinary amount of flow at the weirs, the wants of navigation can be fully supplied without creating objectionable fluctuations or currents in the canal.

The locks, weirs, retaining walls, &c., are all estimated for on the basis of similar structures on the Welland Canal. The foundations of the first two locks from the Ottawa will be on rock (see profile). The other three (3, 4 and 5) will be in clay. Concrete has been provided for in the latter under the foundation timbers. From the foot of the canal the channel through the Ottawa River to its junction with Lake St. Louis is delineated on the general map. Certain improvements are necessary to render the channel navigable for vessels drawing 14 feet. Lights will have to be placed on the shoals where indicated. The question of ice at this entrance was discussed in my previous report. Careful observations have been made of its movements for the past two seasons, which in the main corroborate the views previously expressed. About the time of the opening of the Beauharnois Canal this year, there was a good channel to the north of Cascades Point. Its position is shown on the general plan. From all that has been learned on this subject, it is safe to say that the open season at the Cascades is at least as long as that on the south side of the river at the lower entrance to the Beauharnois Canal. The position of the first lock at Cascades Point is, after full investigation, thought best as indicated on detailed plan No. 5. Its outer end will be in 5 to 6 feet of water at low stages of the river.

The rock outside of where the cofferdam should be constructed, and which will have to be removed under water, amounts approximately to about 11,500 cubic yards—the entrance piers being built as shown. The detailed plan referred to shows clearly

the position of the various structures. The piers may be extended further if considered necessary. It is, however, certain that upon the completion of the St. Lawrence canals to 14 feet draught the small barges of about 25,000 bushels capacity now in use will be at once superseded. Vessels such as those plying between Chicago and Ogdensburg *via* the large Welland Canal can be made to carry on the above draught from 1,800 to 2,000 tons, and consorts to accompany these, holding from 80,000 to 100,000 bushels of wheat, will shorten up the length of the tows, so that long entrance piers will not be required. With steam there will be no crowding of harbours owing to irregular arrivals, and uniformity of movement can be kept up, even with greater ease on the river than on the locks, as the navigation will, of course, be less interrupted by storms. Therefore the harbour accommodation, at each end of the canal shown on the detailed plan, will be found amply sufficient. The Cascades end is well sheltered from all heavy blows; and, in brief, both ends of the projected line enjoy very favourable conditions in this respect.

It will be seen on examining the general map that advantage has been taken of the shape of the rocky shore at the Cascades to locate the piers where deep water is found at the shortest distance out, thus reducing the amount of subaqueous blasting to a minimum, whilst the general direction of the entrance is such as to best suit the position of the terminal approach from the east shown in dotted lines.

In the early spring, and before the anchor ice leaves the centre shoal at the confluence of the rivers (see plan), there is a good, wide channel of over 20 feet of water between it and the Cascades Point. But in the open season the most direct channel to a junction with Lake St. Louis would be to the north of the shoal referred to. This is amply broad and deep, but will have to be well lighted, as before stated, so that vessels may steer clear of the contiguous shoals delineated on the map.

The shape of the Cascades Point is also such that the best canal line runs out on its north side, crossing the old military canal about 300 feet from its lower end and then ascending the bluff as shown partly in side hill. The large amount of rock excavation necessary for the range of five locks, weirs, &c., can be advantageously disposed of in filling cribs—backing up the piers—and forming the north side of the entrance. The surplus of earth, if any, can be wasted over the high bank of the Ottawa to the north of the reach between locks 2 and 3. A considerable portion of this cut towards its west end will, however, have to be hauled to fill up Bissonette Gully.

The entrance pier on the south side will be about 1,000 feet long, with a 300 feet mooring pier on the north side where the deep water is quite close to the shore. There does not appear to be any trouble from ice attacks at this point. The reason seems clear. The "frasil," which in winter forms a partial dam at the junction of the rivers, raises the water in the Ottawa; and the ice which takes across to Isle Perrot is generally held in position until the breakup in the spring, by which time it is so rotten that it sinks and disappears with great rapidity and without doing any damage. It has been remarked that the ice formed in the Ottawa is not nearly so solid as that of the St. Lawrence. At all events, from what has been learned and observed, this entrance would not be liable to such attacks from ice as are now experienced at the foot of the Beauharnois Canal. The waste water of the canal would form a large stream continually issuing from the lower end, and would probably have a tendency to keep the entrance open in the manner now observed, as the result of freshets in the Chambrery Gully.

The old locks of the Cascades Canal, which crosses the located line at station 28, are partly built of the Potsdam sandstone, forming the mass of the Cascades Point. This stone is durable, but very hard, and does not quarry well. It is, however, probable that it will afford good material for backing, and perhaps for some of the minor structures, and when broken up will answer well for the lining of the sides of the canal. The strata at this place dip rapidly towards the west, being apparently on that side of what is called the Beauharnois anticlinal. The overlying clay is of considerable depth where it is proposed to build the range of locks. The profile shows that the boring rod penetrated to a depth of over forty feet from the surface of the upper plateau without finding rock. It is said that the clay here is about 100 feet deep. It is noticed that

there are signs of sliding in the banks of the Ottawa as well as in those of the St. Lawrence.

It is for this reason, amongst others, that any line which approaches the river's edge and runs along it should not, in my opinion, be adopted.

The plans and documents accompanying this report are, it is believed, sufficiently detailed to enable a clear idea to be formed of the position of the line projected on the north shore; its structures, entrances and relation to the general line of navigation between Cornwall and Lachine.

In a report of the late Chief Engineer, Mr. Page, on the navigation of the St. Lawrence between Lake Erie and Montreal, dated 9th July, 1874, there is a general description of the channel through Lake St. Francis; from which it will be seen that the deepest water is towards the north shore. After describing the shoals, &c., at the western end of the lake, the report goes on to say that from opposite Dupuy's Point, three-quarters of a mile west of Cherry Island, "the channel is fully 1,800 feet wide and at least twenty-three feet deep throughout, straight for about five and three-quarter miles, or until nearly abreast of the lighthouse on McKee's Point, which is a little over twenty-three miles from the foot of the Cornwall Canal. Vessels bound for the Beauharnois Canal, generally cross Port Louis Flats, at a point about one and one-half miles to the westward of McKee's Light, but those intending to descend the rapids follow the north or deep water channel to the foot of the lake.

"At periods of low water, or indeed at any other time, vessels drawing twelve feet of water, as contemplated for the enlarged scale of navigation, could not cross Port Louis Flats. Consequently the north channel must be used for at least two miles below McKee's Point, where a course may be steered of fully six miles towards the light situated about one and one-third miles above the head of Beauharnois Canal.

"From opposite Grosse Point to within about 2,000 feet of the canal entrance (a distance of one and one-third miles), the present channel is in many places narrow, intricate, and difficult to navigate, even by the class of vessels now used.

"This locality, it may be stated, is open to the sweep of westerly winds, hence the water way, to be at all times serviceable, should be nearly straight, or at all events have flat, easy curves, and be from 250 to 300 feet wide, and have a depth of not less than from thirteen and a half to fourteen feet at low water mark."

The probable cost of executing the works, necessary for a twelve-foot navigation at the Valleyfield entrance, is estimated by Mr. Page at \$430,000.

It is further stated that "there is, however, reason to believe that the difficulties connected with the existing approach might be obviated by making the entrance at Knight's Point, or Grosse Pointe, and continuing the line downwards to the south of the village of Valleyfield, until it enters the basin situated about one and one-third miles below the guard lock."

With a view of obtaining the required information regarding the practicability and cost of forming a western entrance to the Beauharnois Canal, suitable to a navigation of 14 feet, borings were made last summer and fall from a scow provided with a steam drill and the necessary apparatus for the intended purpose. These borings were made in the line of the channel at the Valleyfield entrance, also, along the projected line to Knight's Point. The tests were continued in the canal itself as far down as the St. Timothy Lock (No. 13). The results are shown on detailed plan No. 1-B, and accompanying sections: Copies of the notes made of the borings by the persons in charge of the scow, are of record, and samples of the various kinds of materials brought up by the tubes have been preserved in boxes properly labelled. The general character of the excavation may be described as consisting of layers of boulders, stones, and clay overlying what appears to be a mixture of quicksand and clay in varying proportions. In many cases the drill after penetrating with difficulty the crust of boulders, stones, &c., went down freely to a depth of about 25 feet below low water mark, showing a soft and unreliable bottom. Experiments made with this material proved that it does not stand at any slope, however flat under water. To attempt its removal to the depth required to obtain a channel suitable for a 14 foot navigation in such a position, would be a formid-

able, if not impracticable undertaking. The amount which would certainly slide in from the sides, could not be even conjecturally estimated, whilst it might prove impossible to maintain the required depth at any cost. To keep vessels off the contiguous shoals in heavy weather, it would be advisable to protect the sides of the channel with piles or crib work backed up by the excavation from the cut—but the cost of such a plan could not be approximately estimated. These remarks apply to the line to Knight's Point, suggested in Mr. Page's report, as well as to the improvements on or near the line of the existing channel to the head of the canal. It may be remarked that when, after completing the present canal, it was found there was not sufficient water at the western entrance, the required depth was obtained, not by deepening the channel through the Valleyfield shoals, but by damming up the south branch of the river, and raising Lake St. Francis, so that no attempt has hitherto been made to cut down into the material above described, or anything done by which an idea could be formed of what the results of such a course would be. Had the excavation proved to be of the same character as is described in Mr. Page's report, the proportionate amount required for the formation of a 14 foot channel would have been about $2\frac{1}{2}$ times greater than for one of 12 feet, which as previously stated was estimated to cost \$430,000. But the uncertain element of quicksand renders it impossible to say further than that it is probable the cost of the formation of the channel at the entrance of Valleyfield for the scale of navigation now contemplated, and properly protected on both sides, would, if found at all practicable, be not less than from a million to a million and a quarter dollars. If the bottom were of rock, boulders, or stiff clay, the cost of its removal could not only be estimated with a reasonable degree of certainty, but the permanence of the channel could be relied upon. It may at once be said, therefore, that it is the difficulty of forming and maintaining this entrance which in my opinion constitutes an insuperable objection to the scheme of reconstructing the Beauharnois Canal to the dimensions of the enlarged navigation. This attempt would, of course, have to be made in case there were no alternative: But in view of the certainty of obtaining a canal on the North Shore in every way adapted to the wants of future navigation, and at a reasonable cost, it seems to me that the recommendation made in my previous report should be carried out.

It may be remarked that the quantities on the line to the head of the canal from deep water do not differ very much from those on the Knight's Point line—the excavation on the latter being very heavy near the shore. (See Estimate.) But there is no question that the Knight's Point line possesses great advantage in avoiding such a length of dangerous outside channel. Still there would be very heavy excavation between the guard lock and the basin, $1\frac{1}{3}$ miles below the town of Valleyfield, a considerable portion of which is as will be seen, either boulders or rocks, whilst the remainder is of soft blue clay, very wet, the surface of the flat land being from 2 to 3 feet below mean water of Lake St. Francis. Under these circumstances the channel would have to be dredged out, and as the sides of the canal in such a position should evidently not be loaded with spoil banks, the material might be carried into the lake and deposited in deep water. The site for the guard lock, supply weir, &c., as shown, would have to be laid dry at considerable expense. The sides of the outside channel (if at all practicable) should be protected to deep water by piers on each side as indicated. Since my last report the question of adopting the Knight's Point line is embarrassed by the projection of two more railways running into the town from the south. Besides the existing Grand Trunk Railway, the Canadian Pacific Railway and the Valleyfield and Adirondack Railway are in process of construction. These lines are shown dotted in red on the general map, that is, as near as the location can be found out at present. This would perhaps necessitate five railway crossings, within a short distance of each other and render the line very much more costly than it would otherwise have been, and also take away some of the advantages previously claimed for it. There is also the fact, which should not be lost sight of, that the town of Valleyfield is close by (see plan) so that there would be a considerable sum to be paid for land damages, whilst such contiguity would enable proprietors to indulge in the manufacture of town lots to any extent, with some show of feasibility. As before stated, the detailed estimate covers the cost of a line from the basin to Knight's Point only.

Although no particular investigation was made of a line to Grosse Pointe, there is but little doubt that the excavation necessary for its formation would be similar in character to that above referred to.

Detailed plan No. 1-B also shows a projected arrangement, in case it should be determined to enlarge the existing canal through the town of Valleyfield.

It will be seen from this that the guard lock might be changed from its present site to nearly opposite the church, where the foundations would be on rock, instead of on the objectionable material under the existing structure.

There is here a favourable position for the erection of a suitable supply weir without interfering with navigation. At the site of the present guard lock, it is proposed to build a double track swing-bridge, in the erection of which a part of the old material might be used. The sides of the present canal from the guard lock westward are now lined at the top by dwarf walls, resting on the edge of the excavation for the canal prism. The material which has been taken from the bottom and sides has been used for filling in and backing up a line of low docking formed of two rows of timbers placed on the dwarf walls referred to. Protection of this character is not permanent. In the arrangement now proposed, the sides of the canal through the town would be formed by retaining walls resting on cribs as shown. This would form a line of wharfage of considerable extent between the site of the new road bridge and that proposed for the guard lock. The cross-sections show the details. This system of protection is continued for about 1,000 feet outside the guard lock, and piers of the usual dimensions and description enclose a channel of 200 feet wide out to the line of deep water. The north pier to be about 300 feet long and the south pier 600 feet.

From this to the junction of the line to Knight's Point, the distance measured along the line of the channel, is over $1\frac{1}{2}$ miles, and at some points on the shoals the cutting for the new channel would be about 12 feet.

That portion of the works connected with the enlargement through Valleyfield could, if executed in accordance with the above views, be accomplished for the most part in winter without risk of interruptions to navigation. The cost of unwatering would be much lessened by draining into the river below the site of the present guard lock. The stoppage of flow through this canal would not be attended with much trouble from manufactories, as there is only one mill at Melocheville drawing water power from it.

The question of the western entrance, being by far the most important in connection with the enlargement or reconstruction of this canal, has been first considered. It is now proposed to describe the position of the entrance from Lake St. Louis with the projected arrangements at that place.

Upon careful examination of the ground it appears clear that an entirely new line of canal such as that marked out on the general plan as the "seven lock line" is decidedly the best. It is proposed to place the locks and reaches so as to occupy conjointly a length of about 1,000 feet each, and a favourable longitudinal section can be had where shown. This will minimize the amount of excavation necessary: and the foundation of the first four locks will be in rock. (See detail plan No. 3 B.)

At Melocheville the Potsdam sandstone, which forms the shore of Lake St. Louis, slopes upwards and inland, necessitating on any line the removal of a large quantity of that difficult material. It is obvious therefore, that the sooner the canal can be made to rise out of this the better the location will be. By adopting lifts of about 14 feet, a greater total height will be overcome by four locks than that now surmounted by five. This is a manifest advantage both in the cost of construction and in the subsequent maintenance and operation of the canal. The arrangement as proposed may be briefly described as follows:—

Lock No. 1, entering the canal from Lake St. Louis, will be located so that its lower end will be at the pitch of the shore line, where the depth suddenly increases from shallow water to 9 or 10 feet at low stages. The coffer dam for this pit would be therefore diminished in cost, whilst the rock outside to be blasted under water would amount to only about 5,000 cubic yards. The most favourable feature of this site is its proximity to the deep water line. The north pier of the present entrance can be made to form the

backing up of the new south pier, whilst a new north pier can be extended for some distance into deep water and be made to afford the full depth of water required at the entrance—good shelter—and sufficient wharfage accommodation.

The rock arising from the lock pit, &c., can be used for filling in the cribs, and be deposited in rear of the north pier, protecting it from the effects of ice shoves—as is done at the present entrance—and making it quite secure. It is clear from the formation of the lock bottom, near the shore, that if the lock were placed south of the present structure, the cost of the new canal would be much increased.

The reach between the first and second locks will cross the line of the existing canal; its level to be about four feet above the surface of the present reach between locks Nos. 1 and 2. The lift at low water of the entrance lock will be about 15 feet; therefore, it would either be necessary to raise the banks of the existing canal and entrance lock in this reach, or shut off the connection between the two, using the old lock as a channel of discharge from the new regulating weir.

New lock No. 2, will be built about 200 feet south of the existing structure as shown. The weir for the regulation of the reach between 2 and 3, will be built in the north bank of the canal and discharge into the present channel. To the south a basin can be located as shown. Lock No. 3, be placed about 400 feet south of the present Lock 3, and just east of the existing shallow basin. Lock No. 4, to be located about 1,100 feet to the west with a basin to the south as will be seen on reference to detailed plan No. 2 B. These four locks are all on rock foundation; and as they are the minimum distance apart and maximum lifts considered advisable, the arrangement is apparently the best that can be obtained. By adopting this line, the work throughout can be executed without interfering with the operation of the present canal and during the favourable season of the year. This fact is fully considered in relation to the estimates.

From the head of Lock No. 5 (10) at the point where the junction of the "seven lock line" and the present canal occurs, there are two courses open for consideration, with reference to the improvement of the central $8\frac{1}{4}$ miles of canal. The first is to make new locks in the vicinity or alongside the present numbers 6, 7, 8 (11, 12, 13), and adopt as nearly as possible the existing levels of the surface of the reaches.

The second is to eliminate lock No. 7 (12), and make the two new locks, 5 and 6, to overcome the same difference of level as the three present locks. In other words, by the arrangement proposed the total lift in the canal will be surmounted by six locks instead of eight as heretofore. The seventh or guard lock would of course be placed near the head of the canal, either at Knight's Point or Valleyfield.

On careful examination, the second plan seems to be the best, and it is in accordance with this view that the estimates have been prepared. It will be observed that in either case the new locks and approaches are kept at such a distance from the existing structures that they can be built without interfering with the operations of the present canal. The object throughout has been to avoid, as far as possible, placing the locks necessary for the reconstruction of the canal in proximity to those now in use, on account of the delays and danger which would inevitably result from such a course.

Indeed, there is really no substantial advantage to be gained from the works of the present line, except that a portion of the prism now excavated to the westward of St. Timothy would be made to form part of the larger canal. But the difficulties to be encountered in joining new and old banks, the necessity of taking out and replacing the culverts, and the additional cost and risk of doing the work at unfavourable seasons, would seem to support the view expressed in my previous report, viz. :—"In short, taking a general view of the locks, weirs, culverts, bridges, &c., as they are at present, and in relation to the requirements of the new and enlarged navigation, it may be safely said that they would not only be of no use in establishing the latter, but that they would add to the time and cost of making such a canal, either alongside of or in any way connected with them."

In the "seven lock line," as projected, all the six lift locks and the guard lock at Valleyfield will be on rock foundations.

Between lock 6 (if placed where shown on the general plan) and the upper entrance, the distance would be about seven miles.

The line of seven locks being clearly the best, it is not thought necessary to describe an arrangement based on retaining the same number of locks as at present, because such a plan would be more costly than that now proposed, and the numerous objections to it on other grounds would, it is believed, ensure its rejection in any case. In brief, the best line that suggests itself for the new works has been described above, and is shown in sufficient detail on the plans and profiles accompanying this report.

It will be observed on reference to the general map, that the approach to the western entrance at Valleyfield from Lake St. Francis, is embarrassed by shoal water outside, not described, but which would probably add somewhat to the cost of constructing the channel there. There is also the additional objection of having to cross the strong current of the river at the head of Coteau Rapids, in order to make the entrance of the Beauharnois Canal from the north or deep water channel of Lake St. Francis, with vessels drawing 14 feet—as in case of their becoming unmanageable in such position, serious results would probably ensue. But it is believed that a sufficient number of facts have been already cited to warrant the conclusion, that it is clearly advisable under all the circumstances, to construct a canal to join Lake St. Louis and Lake St. Francis on the north shore of the River St. Lawrence, rather than attempt the reconstruction of the present Beauharnois Canal.

From all I have been able to learn from those practically engaged in the St. Lawrence navigation, it appears to be the almost unanimous opinion of captains and pilots, that the canal between Lakes St. Louis and St. Francis should be constructed on the north shore, largely on account of the manifest advantage of placing its western entrance at Macdonald's Point in the position proposed, where the head of the canal can be made with ease in the heaviest weather; and once fairly in, there would be no difficulty in descending to the level of Lake St. Louis, with all convenient speed and safety. The locks at the Cascades end being in a straight line, it will doubtless be found practicable to introduce the cable towing system at this place, and thus lessen the danger of accident to the gates, which so frequently occurs when vessels are permitted to use their own steam in such a position. It is to be remarked that, towards the west, about half of the whole length of the canal is a straight line, while the curve around the bend at Coteau du Lac is of such large radius as to offer no obstruction to the rapid transit of vessels.

Although my instructions from Mr. Page were to investigate this question of the St. Louis and St. Francis canal, mainly, if not exclusively, from an engineering standpoint; still I may be permitted to say in conclusion that looking to the inevitable result that if the north shore canal is built of the enlarged dimensions, the present Beauharnois Canal will in a short time be of little or no further use in connection with the through navigation; still its great capability of development for hydraulic power, especially towards the western end, would, if properly utilized, doubtless result in this canal ceasing to be a charge upon the public revenue, somewhat in the manner suggested in the numerous signed memorial (No. 128,863) sent to me recently for report.

A list of the plans and papers accompanying this additional report is hereto appended. Approximate estimates are given of the probable cost of the north shore line, and the seven lock line *via* Valleyfield and Knight's Point. These do not differ materially from the relative amounts submitted in June, 1889.

If the new channel is made on the North Shore as recommended, it should, I think, be named "the Soulanges Canal."

I am, sir, your obedient servant,

THOMAS MONRO,

M. Inst. C.E.

A. P. BRADLEY, Esq., Secretary of Railways and Canals, Ottawa.

LAKES ST. LOUIS—ST. FRANCIS CANAL.

GENERAL ESTIMATES (NORTH SHORE).

Construction of a Canal for a Fourteen Foot Navigation from Coteau Landing to Cascades Point.

1. Entrance piers—Macdonald's Point.....	\$ 100,000
2. Head works—guard lock, supply weir, road bridge, &c., &c.....	328,000
3. Earth excavation W. of river Delisle.....	460,115
4. Culvert at R. Delisie.....	100,000
5. Earth excavation E. Delisle to head of locks at Cascades.....	790,175
6. Rock excavation W. of R. Delisle.....	106,250
7. Road bridges—St. Emmanuel, St. Dominique, St. Féréol and Ferries.....	120,000
8. Culverts at rivers Rouge and à la Graisse.....	80,000
9. St. Antoine lock, weir, bridge &c.....	210,000
10. Locks, weirs, entrance works &c., at Cascades....	1,561,442
11. Land damages, stone-lining, ditches, &c.....	410,264
12. Superintendence and contingencies.....	483,754
Total.....	\$ 4,750,000

THOMAS MONRO.

M. Inst. C. E.

LAKES ST. LOUIS—ST. FRANCIS CANAL.

GENERAL ESTIMATES (SOUTH SHORE).

Reconstruction of Beauharnois Canal for a Fourteen Foot Navigation.

I. Seven lock line through Valleyfield.

1. Entrance piers &c., at Melocheville.....	\$ 100,000
2. Locks and reaches 1 to 6 inclusive.....	2,094,037
3. Lock 6 to basin below Valleyfield.....	612,920
4. Line from basin through Valleyfield to present head of Beauharnois Canal including new guard lock, supply weir, road bridge &c.....	1,000,000
Land and damages &c.....	101,000
Superintendence and contingencies, say.....	500,000
	\$ 4,407,957

Conjectured cost of making a channel through the Valleyfield entrance (about $1\frac{3}{4}$ miles) suitable to the requirements of a 14-foot navigation and for vessels of 1,800 to 2,000 tons burthen (if found practicable) say \$1,000,000 to.....

\$ 5,657,957

II. Seven Lock Line viâ Knight's Point.

1. Entrance piers, &c., at Melocheville.....	\$ 100,000
2. Locks and reaches, 1 to 6 inclusive.....	2,094,037
3. Lock 6, basin below Valleyfield.....	612,920
4. Line from basin in rear of Valleyfield to Knight's Point, including railway and road bridges, guard lock, supply weir, land damages, &c., &c.....	1,292,457
Superintendence and contingencies.....	500,000
	\$ 4,599,414

Conjectured cost of channel outside Knight's Point,
proportioned to that of Valleyfield entrance, say \$ 850,000

THOMAS MONRO,

M. Inst. C. E.

COPY OF THE FIRST REPORT ON THE ST. LOUIS—
ST. FRANCIS CANAL.

(Addressed to the late Chief Engineer of Canals, and dated 15th June, 1889.)

COTEAU LANDING, 15th June, 1889.

"STR,—I have carefully studied and compared the various plans, profiles, and other documents handed to me by you in January last; and have also endeavoured to obtain such additional information from authentic sources, and by examination of the several localities, as time and the season of the year permitted; for the purpose of enabling me to prepare the following report on the question of the location, construction, and probable cost of a canal to overcome the rapids of the river St. Lawrence, between lake St. Louis and lake St. Francis:—this link of the through navigation to be of the standard character and dimensions now generally adopted for the enlarged canals constructed or in progress between lake Erie and Montreal.

It may be stated at the outset, that the surveys made in 1872-3, under the direction of Mr. G. F. Baillaigé, of various lines for a canal on the north shore; and those made by Mr. William Crawford of the Beauharnois Canal and its entrances, had reference specially to the requirements of a 12-foot navigation, that being the scale adopted prior to 1875. But it is believed that a careful resumé of this information, which is apparently full and accurate—being obtained by instrumental investigation continued through several seasons—will, when taken in connection with such general facts as become apparent on a closer examination of the subject as a whole, at least assist in enabling you to arrive at a decision as to what is the best course to pursue in reference to the establishment of a 14-foot navigation between the points referred to. A list of the documents, plans, &c., is hereto appended, and quotations will be made from the former from time to time as may appear necessary.

It is proposed to deal with the question under the following heads, viz. :—

1. General geographical description of Lakes St. Louis and St. Francis, and of the river and the existing canal between them.
2. Proposed methods of establishing an enlarged channel on the south shore, making use of the works of the Beauharnois Canal as far as is considered practicable or advisable.
3. Description of the line proposed for a canal on the north shore between Coteau Landing and Cascades Point.
4. Comparative merits of the routes on both sides of the river, and approximate estimates of their probable cost.

I. Geographical Description.

Those expansions of the St. Lawrence forming lake St. Louis and lake St. Francis may be roughly outlined as follows:--

Lake St. Louis lies at the confluence of two wide, but shallow branches of the Ottawa and the St. Lawrence, between which Isle Perrot is situated. The lake is irregular in shape and depth, and is about $15\frac{1}{4}$ miles long with an area of nearly 75 square miles.

In its eastern end, and for about four miles above Lachine, there are numerous shoals; but the western two-thirds has deep channels; that from the foot of the Beauharnois canal to the upper lightship, a distance of ten miles, being at no place less than 2,000 feet wide and twenty-three feet deep. A line of deep water connecting with this also exists from the foot on the old Cascades Canal to a point opposite Isle Perrot Church; but there are some shoals in its vicinity which will be referred to hereafter.

Between Melocheville and Lachine there is a fall of $1\frac{1}{2}$ feet, the surface of the lake at the former place being stated at 73 feet over mean sea level at Governor's Island, New York. All heights in connection with the proposed improvements are referred to this as a datum plane.

Lake St. Francis is about thirty-three miles long, and has a superficies of approximately 125 square miles. Its shores all round are low and flat, especially towards the southeastern end. The present steamboat channel is throughout towards the north shore, that being the deep water side of the lake. There is a large area of shoal on the south, which, at its lower end, forms the Port Louis Flats. Vessels making the Beauharnois canal leave the natural channel about two miles eastward of McKee's light, and strike diagonally across the lake to Valleyfield. Representations have been made that a considerable saving would be effected in the navigation distance between Cornwall and Lachine by following the north shore of the St. Lawrence from Coteau Landing to Cascades Point, instead of the present line of canal from Valleyfield to Melocheville; this is, however, not the fact, there being but little difference in the distance between the points named by either route.

Lake St. Louis is subject to variations generally much greater than those of lake St. Francis, owing doubtless to its area being only about five-eighths of that of the latter, whilst the two westerly branches of the Ottawa above referred to, together with the confluents from the south shore, frequently represent an accession of volume, during floods, equal to fully one-third of the whole flow of the river St. Lawrence.

In lake St. Louis there has been observed, since 1874, an extreme variation of about 7 ft. 8 in.; and in lake St. Francis 5 ft. 9 in. Although the extreme fluctuations of the lakes may be sometimes as much as those of the river, yet for by far the greater part of the navigation season the changes of surface are but slight, as will be seen from the accompanying diagrams. It will be observed from these that the greatest difference of level at the guard lock (No. 14) in any one season of navigation was 2 ft. 8 in. in 1884, and the least, 1 ft. in 1878, the difference between the extremes of monthly means for the latter year being only a little over three inches.

At Melocheville, for the same period, the greatest fluctuation for any one season was 7 ft. 2 in. in 1887, and the least, 2 ft. 1 in. in 1878. Lowest water of lake St. Louis is taken at 9 ft. on the lower mitre sill of the entrance lock at Melocheville; and that of lake St. Francis at 10 ft. 6 in. on the upper sill of the guard lock (No. 14) at Valleyfield. That is to say, no change has been made from the levels assumed in the surveys of 1872-6.

These figures do not, of course, include fluctuations due to ice jams, one of which caused the water at Melocheville to rise to 24 feet on the sill of the entrance lock, on the 18th-22nd February, 1875. The lower end of lake St. Francis is but little liable to change from this cause.

Between the lakes the river falls about $82\frac{1}{2}$ feet in a distance of $15\frac{3}{4}$ miles, measured along the steamboat channel. This declivity is at present obviated by the Beauharnois Canal; and represents a greater descent than that of any other portion of the St. Lawrence of equal length between lake Ontario and the sea.

The distribution of fall between these lakes partakes of the same general characteristics as those of the river throughout, consisting of rapids, alternating with stretches of lesser current, which are always the widest. There is no portion, however, to which the term "tranquil" can be correctly applied.

Leaving lake St. Francis, opposite Macdonald's Point, by three channels, and passing through a group of islands, which extends eastward for about two miles, the river flows with increasing swiftness, and forms the Coteau Rapids, which terminate at Fer-à-Cheval, with $2\frac{3}{4}$ miles below. In this distance there is a fall of 17.40 feet. The southern, or lost channel, which encircles the south side of the Grande-Isle-de-Beauharnois, was dammed up in connection with the Beauharnois Canal. The island is about five miles long and two miles wide; its northern side forming the right bank of the main stream from Valleyfield to nearly opposite Cedars Village, where the "lost channel" joins the river.

From Fer-à-Cheval across the bay to Pointe-au-Diable, the distance is a mile, and the fall 0.55. At the pointe itself there is a fall of 2.21. From this to Pointe-à-Biron, $4\frac{1}{4}$ miles, the declivity is about 2 feet; so that in the first 8 miles from lake St. Francis the river has a fall of a little over 22 feet. That is, in about half the distance between the lakes, only a little over one-quarter of the whole fall occurs. But below the eastern end of Grande-Isle, and opposite the Cedars Village, the north shore takes a sudden sweep to the southward, and the river is compressed from a width of $1\frac{1}{4}$ miles to $\frac{3}{4}$ of a mile. Here a quick acceleration of current begins, culminating at the Chute-aux-Bouleaux, which is the swiftest part of the Cedars Rapids, the water being there broken up into high and dangerous waves, whilst the velocity is said to be upwards of 15 miles per hour.

In this stretch, between the eighth and eleventh miles from lake St. Francis, there are numerous islands, and the river falls 35 feet. The rapids terminate at about a mile below Pointe-du-Moulin.

From this to Pointe-à-Coulonge, $1\frac{3}{4}$ miles, the fall is only 2.70; thence through the Split Rock to the foot of the Cascades in lake St. Louis, the distance is 3 miles, and the declivity 22 feet, which is pretty evenly distributed throughout the length. Thus an idea of the slopes between the lakes may be formed from the following table:—

	Miles.	Feet.
1. Lake St. Francis to Fer-à-Cheval (Coteau Rapids)...	$2\frac{3}{4}$	17.40
2. Fer-à-Cheval to Pointe-à-Biron.....	$5\frac{1}{4}$	4.76
3. Pointe-à-Biron to lower side of Pointe-du-Moulin (Cedars Rapids).....	3	35.00
4. Pointe-du-Moulin to Pointe-à-Coulonge.....	$1\frac{3}{4}$	2.70
5. Pointe-à-Coulonge to lake St. Louis (Split Rock and Cascades Rapids).....	3	22.54
	$15\frac{3}{4}$	82.40

In this distance of $15\frac{3}{4}$ miles the river varies considerably in width. It is on an average $\frac{3}{4}$ of a mile, which is the aggregate width where it leaves lake St. Francis by the three channels previously described. Opposite the mouth of the River Delisle, where the islands of the Coteau Rapids terminate, there is a stretch of clear water for about 6 miles down to the Cedars Village, with an average breadth of $1\frac{1}{2}$ miles. At the latter place the river suddenly narrows to about half its previous width, and at the foot of the Cedars Rapids, opposite Pointe-du-Moulin, the distance from shore to shore is much less than half a mile. This is the narrowest part of the river between the lakes. The width from the foot of the Cedars Rapids to lake St. Louis is generally about $\frac{3}{4}$ of a mile.

The soundings are very irregular, varying from a depth at low water, in the steam-boat channel, barely sufficient to pass vessels drawing 6 feet to 30 feet and over in the pools between the reefs forming the rapids.

A small geological map accompanies this report on which the outlines of the principal rock formations of the country between lake St. Louis and lake St. Francis are

shown. This will be referred to in connection with the physical features of the lines proposed on both sides of the St. Lawrence. Extracts are also made from Logan's Geology of 1883.

It may at once be stated that the leading characteristic of the ground on both sides adjoining the river between the lakes is its low altitude and comparative flatness. That of the south shore is, however, the lowest and the flattest.

If the plane of lake St. Francis be projected eastward and inland at Hungry Bay, the land is, from the commencement, wholly below that plane; so that were it not for the dykes formed around the foot of the bay the water of the lake would at times overflow a large area of country along its margin. At present the river St. Louis, which is four miles inland, is fed by a small canal in shallow cutting from the lake; and a glance at the ground will serve to show that a small rise in the latter would make the Châteauguay River one of its outlets also.

The river, in breaking through the drift which here fills a portion of the great triangle formed between it and the Ottawa, shows the depth of this drift partly on each bank. On the north shore the ground is almost on a level with the river where it leaves the lake, but as the St. Lawrence falls rapidly whilst the interior plateau retains its general altitude for miles, the bank gradually becomes higher until at the Cascades it is about 50 feet above the water. On the south side a similar feature occurs, but there the drift clay appears to be much thinner, and this has an important bearing on the subject under consideration, as will be shown hereafter.

These clay banks have a great tendency to slide; and on the north side, this has been a source of much trouble and expense in maintaining the principal road, which generally follows the edge of the river from the Coteau to the Cascades.

In the location of the Beauharnois Canal, advantage was taken of this lowness of the ground to place in it the best position for a line of inland communication between the lakes for the scale of navigation then adopted.

The length of this canal is officially stated to be $11\frac{1}{4}$ miles. This does not correspond with the measurements. From the foot of the entrance lock (No. 6) to the west end of the guard lock (No. 14) at Valleyfield the distance is $11\frac{1}{3}$ miles. But the actual length between the ends of the entrance piers is a little over 12 miles. The channel west of the guard lock is just as much a part of the canal as the reach to the east of it. The position of the guard lock does not affect the length of artificial navigation. A proper basis of comparison between canals is the distance between deep water curves at each end.

The present sizes of the prism are very various. It is supposed to be 80 feet wide at the bottom, with inside and outside slopes of 2 to 1, and 10' deep, where not silted in. The aluminous clay, of which the sides are formed has silted in so as to cause a good deal of cleaning out to keep the canal in fair order. On the mitre sills of all the locks there is a depth of 9 feet at least—except at the entrances, where this depth is, of course, variable, but never lower than 9 feet—so far as recorded.

The towing path is on the north side of the canal throughout, and the inside slopes are protected at the water line by a dry rubble wall, 4 feet in height.

The locks, of which there are nine, are 200x45 feet in the chamber. The upper gates are placed on a curved breast wall—the lower ones being full height. The foundations are generally of timber and plank.

The entrance from lake St. Louis is formed by two short piers, and affords but scanty accommodation for vessels and barges, the north pier being only 536' in length, whilst the southern pier is crooked and is built for the most part on rock in very shallow water. The bottom of the channel leading to the entrance lock is rock with only about 10 feet of water over it at low stages of the lake. It is, therefore, evident that the present works would be of little, if any, service in the formation of a harbour suitable to the wants of navigation on the scale now contemplated.

The entrance lock (No. 6) is the first of a range of five, which surmounts the rocky slope from lake St. Louis, and in a distance of a little over a mile, overcomes about five-eighths of the total rise in the canal, or 53·20 feet. Locks 6, 7 and 8 are founded on the

rock, which is also met with to a small extent in the prism of the canal and the adjoining raceways. This rock is the Potsdam formation, a sand stone exposed for some miles along the shores of the lake in this vicinity.

Between the entrance lock and No. 7, the canal takes a sharp turn to the north, and then sweeps with long curves southwards to lock No. 10, the coping of which is 56 feet over low water in lake St. Louis. The distances apart, lifts, &c., of the five locks referred to are as follows:—

No. of Lock.	Height.	Lift.	Length of Reach.
6.....	23 feet 1 inch.....	11·0	
7.....	23 “ 1 “.....	11·0	1,070 feet.
8.....	23 “ 7½ “.....	10·7	870 “
9.....	22 “ 5 “.....	10·6	1,345 “
10.....	22 “ 10 “.....	10·0	1,298 “

It will be observed that the reaches are quite long enough to permit of the present locks being lengthened and yet leave ample room for the free passage of vessels of the enlarged size. The locks occupy the most favourable ground in the vicinity, the line of longitudinal slope being well chosen. The raceways are on the south side of the canal throughout.

There is a road bridge over lock No. 7, and farm bridges over the centre of the chambers of locks Nos. 8, 9, and 10.

Between 10 and 11, the distance is over a mile. The canal is here partly in embankment, with cutting about sufficient to make up the banks on each side. Nearly midway of this reach is a four feet culvert, which takes off the drainage from the south side. The ground, for the whole length of the canal, slopes towards the north so that the surface water has to be passed under it. The general character of the soil on this reach is clay mixed with boulders.

The distance from lock 11 to lock 12, is 5,490 feet. At each of the locks 7 to 14 inclusive, the supply is passed over or through a weir situated about midway of a small race, constructed round the south side of the lock. This channel leads the water out of the canal about one hundred feet above the upper wing and discharges it at about the same distance below the foot of the lock,—the direction of the issuing current being nearly at right angles to the axis of the canal. The weirs are generally about 50 feet in length and breadth, and are provided with four sluices, each four feet square opening.

Lock No. 13, is situated 10,200 feet above lock No. 12. It may here be stated that there is a bridge across the centre of the chamber of every lock on the canal, except the entrance and guard locks. At the latter the bridge was moved so as to cross above the upper wings.

About 600 feet above No. 12, there is a large arched culvert of 12 feet opening, through which a considerable volume of water passes in the spring or during rainy season. The intrados of the arch is about 3 feet below the bottom line of the canal.

This two-mile reach is also partly embankment and partly cutting. There are a good many boulders mixed with the clay towards the western end, indicative of the nearness of the underlying rock; which in fact crops up between lock No. 13 and the St. Timothy bridge, situated about $\frac{1}{2}$ mile to the west, on the summit level, which stretches between locks 13 and 14, a distance of about 6 miles.

No. 14 is the guard lock and is situated in the town of Valleyfield, about $\frac{2}{3}$ of a mile from the upper entrance of the canal.

The St. Timothy bridge has side-walls of masonry. The superstructure is a wooden truss in fair condition. The roadway is a single track. This is an important crossing. The village is situated about $\frac{1}{4}$ of a mile to the north on the bank of the St. Lawrence

On the six-mile or summit level, there are six arch and box culverts of various sizes, to provide for the drainage from the south towards the river. These are stated in many cases to be too small, and from their position they are frequently choked up with snow during the winter. On this reach, as on all the others above lock 10, the cutting is for the most part arranged to yield just enough material to form the banks. For about $\frac{3}{4}$ of a mile below the guard lock (No. 14) the prism is, however, in full excavation, constituting what may be called the summit cutting of the canal, and showing how advantageously it was originally located. On this long level and about $1\frac{1}{2}$ miles below the guard lock, the Canada Atlantic Railway crosses, by means of a swing-bridge with a single opening. The piers are of masonry, and the canal approaches of pile work. Between the St. Timothy bridge and the guard lock there are two places where ferry scows have been established for the accommodation of farmers. These, together with the numerous bridges already alluded to, afford unusual facilities for crossing the canal.

West of the guard lock and through Valleyfield the sides of the canal are 130 feet apart at the water surface and consist of dwarf walls, resting on the top edge of the earth excavation, constituting the prism of the canal. The material taken off the bottom and part of the sides is used for backing up and filling a line of low docking formed of two rows of timber, placed on top of the dwarf walls referred to. The distance from the guard lock to the head of the canal, is 3,500 feet. The whole length between the ends of the entrance piers is, say 12 miles, or 63,336 feet. (See plan.)

The entrance at Valleyfield has been formed by enclosing a large water space at the head of the south channel of the St. Lawrence, which was dammed off by connecting the main shore with Grande Isle, and the latter with Clark's Island. Through this area, which is principally shoal, a channel with about 10 feet of water at low stages of the lake has been formed. This is well lighted, but is crooked, and during heavy winds dangerous and difficult of navigation.

This general description will probably enable a tolerably clear idea to be formed of the lakes and existing line of canal connecting them. It is now proposed to look at the latter from the point of view of its use or otherwise, in establishing a line of navigation such as that contemplated.

2.—LINES ON THE SOUTH SHORE.

As before stated the present canal is located and constructed through soil chiefly clay mixed with boulders, and having a considerable exposure of rock at the lower end. This forms the foundations of the first three locks from lake St. Louis. Rock is also touched near lock 13, —about midway of the 6th mile level— to the west of the guard lock—and again between it and the head of the canal at Valleyfield. (See profile.)

The rock at Melocheville is that of the Potsdam formation, the general distribution of which in the vicinity of lake St. Louis and the adjacent country is briefly described as follows :—

The formation enters from the United States, in the township of Hemmingford, where, although its base is not reached, there is a display of about 540 feet in thickness of the rock, which is projected northward across the county of Beauharnois, and thence across lake St. Louis into the lake of Two Mountains. At the province line the formation occupies about forty miles; but its breadth diminishes gradually northward, and at Beauharnois, it does not exceed four miles. Its outlines are shown on the accompanying geological map. It also includes Isle Perrot, and is found from the Cascades to Rigaud on the south shore of the Ottawa. The rock traversed by the canal at Melocheville is very hard and brittle. Its surface layers are not suitable for first class structures.

“The overlying calciferous follows the sinuosities of the Potsdam. The latter can be traced across the measures for a distance of 3 miles, up the St. Lawrence along the shores from Beauharnois to the west, where it becomes interstratified with calcareous and magnesian layers: but at St. Timothy, 3 miles further up the river, the strata are covered with drift, until reaching Grande-Isle, where quarries expose good beds resting horizontally upon others of an arenaceous character. These beds belong apparently to the

Chazy formation, of which the strata of the island may perhaps constitute an outlier. The summit of the calciferous must thus be on the main land close by."

The quarries referred to in the foregoing description are situated a little to the north of the Valleyfield station of the Canada Atlantic Railway, and some stone has been obtained there for the masonry of the adjoining bridge now being constructed over the St. Lawrence. It has also been used for building in this vicinity. It is a bluish gray limestone, conchoidal in fracture. It appears hard to cut, brittle—and liable to crack. It is stated that this stone was used in the construction of some of the locks of the Beauharnois Canal.

The superficial deposits of the river banks on both sides between lake St. Louis and lake St. Francis form a portion of the vast area covered by the Champlain clays, and are described as follows :

The clays of this series are well seen along the tributaries of the Ottawa in the Seigniories of Vaudreuil, Soulanges and Rigaud : on the River à-la-Grasse in Rigaud, the inferior parts of the section exhibit an exceedingly fine bluish or calciferous clay, free from pebbles. Very similar sections occur on the same river in Hawkesbury, and also on the rivers Delisle and Beaudette. Clays of this series are observed on the St. Lawrence as far up as Dickenson's Landing, where a fine brownish calciferous variety is overlaid by a coarse clay holding pebbles and boulders derived from the calciferous formation, with others of Laurentian origin, these clays occupy the bank of the river for the most part down to the Cascades.

The comparative thinness of this drift on the south side will be seen at a glance on examining the profile of the Beauharnois Canal, prepared from borings carefully taken at short intervals along its route. The proximity of the rock in several places would frequently bring the excavation for a new channel, five feet deeper than the present one, into layers of boulders or in some places solid rock.

It may here be said that the term "enlargement" cannot be correctly applied to a change so radical as that required to adapt a canal of the present dimensions of the Beauharnois to the new 14 foot standard. The water section of the prism is only equal to 1,000 square feet, whereas the new canal has an area, of 1,950 square feet or nearly double that of the existing channel. Where the latter is in cutting, this could be obtained, either by dredging during the season of navigation or partly when the canal is laid dry,—in either case, at considerable expense beyond that of ordinary excavation. But there is only a small portion of the western end of the canal so situated, by far the greater part being in shallow cutting yielding just sufficient material to form the embankments on either side. This, although the most economical method for first construction, has some practical drawbacks, if an attempt be made to greatly increase the dimensions.

For example, it appears the best plan would be to let the north bank remain in place, continuing its inside slope downwards in cutting to the new bottom line. This level to be extended outwards for the required width of 100 feet. The southern inside slope of a prism of these dimensions would include nearly the whole of the south embankment of the present canal, which could not, of course, be interfered with until a safe means of holding the water on that side was provided by the formation of the new bank to the south of the present one. The material for this would either have to be borrowed or placed from the dredgings as circumstances would determine. Besides, the important fact of the nature of the material, under the present canal bottom, must be clearly borne in mind. From the borings it is evident that there are layers of boulders overlying the rock in many places which will be met with in sinking to the required depth. This will not only have the effect of rendering it difficult to make the new bank water tight, but might result in the bottom part of the north slope proving leaky, the groups of stones acting as drains to lead the water out of the canal, and thus cause additional expense in the formation of the new channel. This danger will, of course, be much increased by the very considerable augmentation of pressure on the sides and bottom of a canal, 15 feet deep, as compared with one of only two-thirds of that depth.

A glance at the cross-sections will show that some such mode of construction as that described must, however, be adopted, unless an entirely new canal be made along-

side the present one. It also appears as if the saving in the total volume of earth work, made by taking in the prism of the old canal would not result in a corresponding diminution of cost, as the unfavourable circumstances under which the lesser quantity would have to be handled, would probably make the total outlay about the same in either case. In short, although this route offered obvious advantages for the formation of a canal inland of the dimensions adopted when it was built 45 years ago, it by no means follows that it is equally eligible for a channel five feet deeper than the present one.

With reference to the locks, it is quite certain that none of these could be adopted to the requirements of the new canal. To sink the foundations about six feet deeper and lengthen the chamber 70 feet, would obviously necessitate the removal of the entire structure. This would not be effected, and the locks or any one of them rebuilt on the same site, without interrupting the navigation of the present canal. It is clear there is no advantage to be gained towards the construction of the new work by attempting to convert any of the existing structures to its use. On the contrary, the necessary proximity of the old locks to the new ones would, in many cases, probably render it unavoidable to incur considerable expense in order to protect the foundations of both, whilst the axis of the latter, when built, will not coincide with the centre of the new canal, so that easy curves of approach at both ends will have to be formed for each lock at considerable expense. Neither the present position nor dimensions of the raceways to the weirs, nor the weirs themselves, are admissible on a line of the standard now adopted. They would have to be entirely abolished, and replaced by new and suitable arrangements, at a greater outlay than if they were not in existence. The ten culverts under the canal would also have to be entirely removed to permit of their foundations being sunk to the required depth. They would have to be replaced by new and (in some cases) larger ones, during winter; and it is probable that the excavation, unwatering, &c., for several of the bottoms would be found very difficult and costly. Bridges over the lock chambers could not be permitted on the new canal, and others would have to be built, at least in some cases, at a very considerable expense. The road or railway bridges over the canal would also have to be reconstructed with double openings instead of the present single ones, and in short, taking a general view of the locks, weirs, culverts, bridges, &c., as they are at present, and in relation to the requirements of the new and enlarged navigation, it may be safely said that they would not only be of no use in establishing the latter, but they would add to the time and cost of making such a canal either alongside of, or in any way connected with it. As a matter of fact, the experience of other canals has induced you to adopt the principle, wherever at all practicable, of taking an entirely new route for enlargement. As for example that selected for the Welland Canal between Thorold and Allanburg.

Applying this course to the present case, it is evident that a new line would have to be constructed between and including the 6th and 10th locks. After a careful examination of the locality, it appears that this line (except, perhaps, at the entrance) would be in the best position, if placed inland of the present canal, which occupies the most favourable ground for ascending the slope at Melocheville.

If the new line were located throughout on the north or river side, it would be thrown into heavy bank; whilst if placed to the southward, adopting the present number and lift of locks, the work would be in heavy excavation, a large part of which would be rock. The reason of this is obvious, on an examination of the ground, as it slopes outwards from the south, whilst the new canal, if placed alongside the old one on that side, would be 5 feet deeper where the surface is often considerably higher. By following the plan of similar lifts, a full and free communication, could, of course, be easily established between the water surfaces of the present canal, and those of the new line, which would be a manifest advantage, as the united areas would be amply large. In the working of this canal, however, the influx practically required, is, of course, the amount which would keep up continuous lockages, without permitting the levels to be drawn down to such an extent as to impede the free passage of vessels of full draught in any of the reaches. If the area of the canal surface be confined to that of the prism itself, the sending down of the supply is apt, in short levels, to create objectionable currents and fluctuations, and

generally to interfere with rapid and safe transit. The area of reach should, therefore, where practicable, be increased at least by the formation of raceways alongside, about half as wide as the main channel. If connected with the latter by several openings at a proper distance below the lock, as, for example, in the reach between 23 and 24 Welland Canal, such an arrangement is found to answer very satisfactorily.

To adopt the same lifts in the case in point is open, however, to the objection of unnecessarily increasing the number of new locks—that is building five, where four of ordinary lift would answer the same purpose. The saving of one lock bottom—the cost of additional masonry, copings, machinery, gates, &c.—together with the outlay for attendance and maintenance, represent a considerable sum. On the other hand, if the lesser number of locks be adopted, the connections between the old and the new levels cannot be so satisfactorily made; whilst the new locks (see profile) will necessarily be in heavy embankment towards the top of the slope. Taking all the circumstances into consideration, it appears, however, as if a new line of four locks would be the best. The damage to property would not differ very much in either case.

It will be observed on reference to the plan, that the new line has its projected entrance from lake St. Louis to the north of the present one. This is because of the saving which will be effected in the amount of rock excavation under water by adopting this course. To the north of the present piers, there are 15 feet of water at lowest stages, within 350 feet of what may be called the shore line, or a contour line with only a half foot of water as shown on the plan. From this line the ledge or slope falls off suddenly into deep water. By placing the entrance lock where shown, the rock would only require low dams to enable it to be removed, and the contents of the pit could be deposited in the shape of a protecting bank in rear of the new entrance pier—the existing one being made to form a part of the south pier as indicated. Although by placing the entrance works on this side, they will be liable to ice shoves, similar to those experienced at the existing piers, yet it is believed that with the material arising from the necessary excavations, they can be made equally safe.

The new lock, if placed in the position shown, would be in considerable rock cutting; but this cannot in any case be avoided. In short, it is believed that the site marked would be the best, and the new works could be executed without at all interfering with the present entrance, whilst they could be constructed at much less cost than if placed to the southward or in shore of the existing harbour.

From the new entrance lock the line might cross the prism of the present canal to the south side, and thus avoid the awkward curve in the latter between locks 6 and 7. This is an important point in view of the greatly increased length and size of the vessels which would doubtless navigate the new channel. These require easy curves for safe and rapid passage, and that shown is about 3,000 feet radius.

A new waste weir of ample dimensions should be built just south of the present lock.

The reach between 6 and 7 might be raised so that the entrance lock would have about 14 feet lift at mean water of lake St. Louis. This would necessitate the raising of the bank of the present reach some 4 feet, which could be easily done; and in this way the two canals on the first level would be united, giving an area of water surface of over 6 acres.

Lock No. 7 could be placed 1,000 feet above the head of No. 6, but on the south side. It is not considered objectionable to cross the lines of the canals in the manner proposed, because the larger vessels will soon supersede those now in use, and navigation will be practically confined to the new canal. It may be observed that in dealing with the question of the new route at the eastern end, it is not embarrassed by the existence of numerous mills or manufactories deriving their power from the locks, as on other canals. There is only one grist mill driven by water from the canal, the lease of this being made subject to the usual conditions.

Lock No. 7 would have 14 feet lift, with a road bridge over its lower end. The distance between this and the bridge over the centre of the present lock would permit of an easy grade between them. The rock arising from the excavation here may yield suitable material for rough walls and, perhaps, for the backing of the large structures.

Between No. 7 and No. 8 the length would be about 700 feet. The rise in the canal is not here so much as the slope upwards of the rock from Lake St. Louis, therefore this lock will be in over 15 feet rock cutting, and the level of the reach between 7 and 8 would have its raceway on the north side with a regulating weir discharging into the present canal; this raceway to be 50 feet wide and about 6 feet deep, with connecting openings into the main canal in the manner previously described. This mode of construction is costly, but it will save a large amount of rock excavation, and is believed to be the most suitable for that locality.

Lock No. 9, to be placed to the south of the present Lock No. 8, would have also about 14 feet lift, its upper level to be of the same height as that below lock No. 11 of the present canal. This would make the water of the new canal about 12 feet higher than that of the existing one between its locks Nos. 9 and 10; but this arrangement best suits the longitudinal section of the ground, and lessens the cost by rising, as soon as practicable, above the line of rock cutting; that is, the distance between locks is quite enough for all practical purposes, and the rock excavation is much reduced by adopting this plan. The ground to the south of the new line is still higher, and the slopes being clay would probably yield good material for making the necessary embankments. The distance between 8 and 9 will be about 800 feet. The surface of the rock at the site chosen for the latter at such a level as to be just suitable for its foundation. Advantage can be taken of the rising ground to the south to make raceways or a small basin on that side.

The advantages of adopting this new line appear to be as follows:—

1. It will reach deep water in Lake St. Louis close to the shore, and where the bottom continues, for some distance outwards, at a depth suitable for the enlarged navigation.

2. It will avoid the objectionable curve between locks Nos. 6 and 7; and by making the lifts higher and uniform, and the levels as short as is consistent with the efficient working of the large canal, the amount of excavation would be less than if the reaches were on the same level as those between the existing locks.

3. The difference will be saved between the cost of constructing five locks of the present lift and that of four of 14 feet, and will save the expense of operating one lock. Besides, by lessening the number of locks, the facilities for rapid navigation would obviously be increased.

It may be stated that although the plan of raising the banks and lock walls on the lower reaches of the present canal, in order to obtain the required depth, might have been advisable for slightly increased draughts, such a method would prove entirely unsuitable for the contemplated scale of navigation. The present lock walls were, of course, proportioned to the pressure of a 9-foot draught, and to build them up to the requirements of 14 feet would be obviously impracticable. In this connection it may be stated that in many cases the present lock walls have been pushed inwards by the action of frost—the courses are thin, the copings dilapidated and the foundations defective. Besides, the shape of the lock, its upper breast wall, chain wells, &c., are entirely unsuitable to the present standard arrangement of gates and their machinery.

Westward from the present lock No. 10 the enlargement would follow the south side of the Beauharnois Canal in the manner previously indicated for about $8\frac{1}{2}$ miles, or to the basin situated $1\frac{1}{3}$ miles below the guard lock at Valleyfield.

The new locks and weirs alongside of Nos. 11, 12 and 13, should be placed on the south side of the present structures—the locks having their centres 75 to 100 feet apart. This would make the new locks about 55-75 off the axis of the new canal, and necessitate the formation of easy approaches at each end. There would probably be trouble in keeping the foundation pits of the new locks dry, and also in avoiding risk of accidents to the present ones when the canal is full; it being necessary to sink the former 6 feet below the bottom of the existing structures; while they should be in as close proximity as safety would permit. It is probable, however, that the new foundations will be in fairly good material, generally stiff blue clay. All the weirs to be of standard dimensions, with about 60 feet length of breast—having a centre pier—and with six openings

4x4 for sluice gates. The raceways to be 50 feet wide on the bottom—the water to be taken out of the canal some distance above the lock and admitted by several openings made in the towing path bridges, to be constructed some distance below Nos. 11, 12 and 13.

It is proposed to diverge from the present canal towards its western end at the basin previously referred to. The canal to be continued from this point westward to Knight's Point, running south of the high ground in the rear of the town of Valleyfield in about the position shown on the plan. This line has been thoroughly surveyed and quite sufficient information obtained to enable a correct idea to be formed of the work required to complete it, at least as far as the shore of Hungry Bay.

The chief reason in favour of the adoption of this course, is that the construction would not interfere with the present canal, where it passes through the town of Valleyfield, nor disturb the existing guard lock, piers, &c., &c. The line *via* Knight's Point will also reach deep water at the western entrance a mile sooner from the shore than it is reached from the head of the present canal, the respective distances being 3,900 and 9,100 feet. Besides, the present channel inside is crooked and shallow, and its improvement would not only involve a very large outlay, but even when deepened it would be dangerous navigation, owing to the contiguous shoals which cover so large an area of the water space, and are formed almost entirely of boulders or rock.

The line starts from the so-called basin, and is straight for about a mile. It then curves slightly to the north and runs directly to Knight's Point, touching the shore about $3\frac{1}{4}$ miles from where it leaves the present canal centre. In this distance the ground is quite flat, its general level being about $1\frac{1}{2}$ feet above low water line of Lake St. Francis. There will consequently be an average cutting of about 17 feet, consisting chiefly of blue clay and sand, and partly of boulders and solid rock. The total excavation would be about one and one-fourth millions of yards. The character of the material to be removed outside the shore line would be quite difficult—probably rock in the bottom of the channel, but at all events clay mixed with masses of boulders; equally if not more expensive to remove than solid rock. The quantity which must be excavated to obtain a channel say 300 feet wide at bottom—with side slopes of 2 to 1, and 16 feet deep at assumed lowest water, would be say 375,000 cubic yards. The fluctuations of the lake necessitate the construction of a guard lock and a supply weir of ample dimensions. These can be placed on solid ground where shown. The entrance, for a considerable distance from the shore, must have docking on each side. As the land towards Knight's Point is very flat and partly below the level of the lake, there will likely be a good deal of trouble and expense in unwatering the foundations of the structures, and in the excavation for the canal itself. Since this line was surveyed in 1874, the town has extended towards the south, and the property traversed by it has become more valuable. The Grand Trunk Railway, recently constructed, would also cross it very obliquely, and would have to be diverted for some distance on either side so as to place the new bridge at a fair angle to the canal. There would also have to be a bridge at the Durham road—a single track would suffice. The nature of the ground in the neighbourhood of the line to Knight's Point is peaty, but the borings along it show chiefly blue clay interstratified with sand and with layers of boulders. Near the point solid rock will be found almost certainly at the site chosen for the guard lock and supply weir. The area of the spoil banks, if made 10 feet high, on which to deposit the excavation east of the Point, and between it and the present canal, will be about 75 acres; and this taken in connection with the land required for the canal itself, would amount to a total of say 250 acres.

The diversion to Knight's Point involves so large an expenditure that an estimate has also been made of the enlargement following the present canal to its head, and deepening and widening the channel through Valleyfield; also continuing a channel one and three-quarter miles to deep water. This line is objectionable in many respects, and as will be seen will cost about as much as that *via* Knight's Point. It appears therefore that there are no good reasons why it should be adopted.

LINES ON THE NORTH SHORE.

All the early attempts at improvement of the river between Lake St. Louis and Lake St. Francis, appear to have been made on the north shore.

Prior to the conquest, these consisted chiefly in the formation of four small boat canals; two at Cascades Point, one at Split Rock and another at the Coteau village.

These canals were subsequently either reconstructed or enlarged by the imperial government in the early part of the present century, so as to pass Durham boats of 25 tons burden. The canals so enlarged, were 12 feet wide, with $3\frac{1}{2}$ feet of water on the mitre sills. Their aggregate length was about $\frac{3}{4}$ of a mile, with nine locks.

From a return made to the House of Assembly in 1834, it was shown that between the years 1815 and 1833, a net revenue of £21,596 7s. 0d. currency was derived from them; and an average of 900 batteaux passed through each canal annually. An Act (I Wm. IV., c. 21) granted a sum of £10,201 8s. 7d. for the improvement of the river navigation between Lakes St. Louis and St. Francis. This was for the purpose of removing certain obstructions to the passage of Durham boats, and generally to establish a channel from the Cascades to Coteau du Lac on the scale of the military canals. The whole of this money was spent in removing large boulders from the north shore of the river, and in endeavoring to render the ascent easier by a system of inclined planes cut inland, so as to distribute the fall more evenly than in the pitches of the river outside. At Mill Point, about two miles below the Cedars village, a cut of this description, 2,000 feet long is made; and at Pointe-au-Diable—the Rigolet, and several other places, similar works were commenced and partly executed.

This defective plan was, however, soon abandoned, as the growing wants of the country demanded an efficient system of canals.

Accordingly when J. B. Mills reported in 1834 on the location of a steamboat canal between Lakes St. Louis and St. Francis, he says, in speaking of the river line: "I will here remark that the river improvement, as proposed, interferes with, and will destroy all the improvements which have been effected by the British Government." Shortly after the union of the provinces this question was finally taken up.

A full discussion took place on the merits of the various routes then proposed before a committee of the House in 1842—the result being that the Beauharnois Canal was constructed on the south shore of the St. Lawrence.

The question of the enlargement of this canal, or rather its reconstruction on the present scale of navigation, having been already referred to at some length; it is now proposed to describe the country on the north shore, and the line projected on that side of the river.

On reference to the accompanying map, it will be seen that a straight line drawn from Macdonald's Point at the east end of Lake St. Francis, and the head of the Coteau Rapids, to near the foot of the old Cascades Canal where it debouches into the Ottawa river, is about thirteen miles long. This air line passes through Grande Isle de Beauharnois, about two miles to the south of the great bend in the north shore of the river along which the village of Coteau du Lac is situated.

This line has a general bearing of about N. 78 E. It follows, therefore, that the nearer any line between these terminal points approaches the shore around the bend in question, the more direct it will be. This has had a controlling influence on the location now proposed; and which will be described in detail hereafter.

As previously stated with reference to the relative level of Lake St. Francis as compared with the elevation of the land along both banks of the river to the eastward, the north bank is a little higher, and the drift overlying the rock formations on that side is generally much deeper. Thus, for the first five miles or so in descending towards the Cascades by any inland line, the ground is, for that distance, slightly above the mean level of the upper lake. This necessarily would throw a canal into full cutting, and entail a greater expense for earth work than if the quantities of excavation and embankment could be nearly balanced. This is a chief feature of all north shore lines. There will have to be a very large amount of excavation thrown to spoil towards the western end and a considerable acreage of land must be purchased for the purpose of depositing

this material. It is to be remarked, however, that the character of the soil, so far as has been ascertained, is favorable: nearly the whole mass to be removed being clay. This overlies the rock towards the eastern end to a depth of over 100 feet. There will be only one place west of the Cascades Point where the rock rises above the level of canal bottom; and that is for about four-fifths of a mile to the west of the Delisle River, where the calciferous will have to be removed to the extent of over 80,000 cubic yards. At the lower end of the route there is an exposure of the Potsdam formation, similar to that at Melocheville, with certain modifications.

In considering the question of canal location on the north shore, it may be stated that the result of all previous discussions by experienced engineers seems to be condemnatory of any attempt to utilize the reaches of the river between the rapids for the purpose of aiding in the establishment of a line of navigation, even on the limited scale contemplated over 50 years ago. The proposition to this effect made by Mr. Mills in 1834, received a full share of attention in the discussions of 1842, above referred to. The objections then strongly urged against this scheme have become so formidable now that the size of vessels in use has so greatly increased, that it is not considered necessary to refer at further length to the matter. It may be said, however, that the strong currents in the reaches—the rocky nature of the bottom—and the insufficient depth of water in many places; together with a multiplication of costly river entrance and exit works involving heavy outlay and much risk in unwatering, being subject to ice attacks, sudden fluctuations, &c., are justly held to be fatal to any scheme of this kind.

Another proposition which has received much attention is that to utilize what is known as the "Chamberry Gully" in the formation of the eastern portion of the inland route. This gully has its origin about 2 miles north of the Cedars Village, where it begins at a slight depression in the clay of the plateau lying to the west of the River Ottawa, into which it debouches after a course of about 5 miles, in a direction generally parallel to the St. Lawrence and about 2 miles to the north of it. At its mouth the banks are nearly 50 feet high, the stream having worn out this deep bed, the bottom of which is from two to four hundred feet wide. In many places the ravine is quite crooked, and its general shape both as to line and sides slopes is unsuitable for the construction of a large canal as will be seen on reference to the accompanying profile. The saving which it is said would be effected by its adoption in the volume of earth to be moved, would, it is believed, be far more than counterbalanced by the difficulties which would be inevitably experienced in obtaining, in the gully, suitable sites for the locks, and cross banks in which to locate the necessary regulating weirs. The nature of the material in the bottom and sides is soft, and the clay washed out of the ravine has been deposited at its outlet in the River Ottawa, forming an extensive mud flat, with only five or six feet of water over it at low stages; so that to obtain the necessary depth of entrance channel, would involve heavy dredging for about half a mile from the shore. This cut under water would be difficult and expensive to maintain in such soft material. Besides, an entrance, in this position would be liable to be blocked up by ice, which, from the shape of the shore has a tendency to remain in the bay at the mouth of the Chamberry Gully after it has passed out of the channel of the river. This question is referred to at length in Mr. G. F. Baillairgé's report, dated 17th September 1874,—and the conclusions arrived at by him seems to be in accordance with and sustained by the facts.

If therefore it be granted that no scheme which proposes to utilize the reaches of the river between the rapids should be entertained, and that it is inadvisable to adopt the line of the Chamberry Gully,—both of which conclusions appear reasonable—it follows that unless there are special objections to such a plan, the straightest line which can be obtained between the Côteau and Cascades Point is the best. This is evident on a careful examination of the country lying between these points, which throughout is so flat as to present no obstacles which would justify a diversion from the direct line proposed.

In this view of the case, it is considered judicious to project a route for construction in about the following position:

The line would leave the shore of Lake St. Francis at Macdonald's Point, and from thence run straight for over a mile, just avoiding the river at the bend in front of

Gabriel Prevost's farm. From this to $6\frac{1}{2}$ or 7 miles it sweeps around the great bend previously referred to, passing behind Côteau village at an average distance of about $\frac{1}{4}$ mile from the river front. The curves on this distance of $5\frac{1}{2}$ or 6 miles are of great radius, and for navigation purposes are practically a straight line. On this length the rivers Delisle, Rouge, and à la Graisse are crossed. From $6\frac{1}{2}$ miles the line strikes nearly straight for the eastern terminus. The first tangent east of the 7th mile is almost $6\frac{1}{2}$ miles long, passing about 1 mile in rear of the centre of the Cedars Village. It deflects slightly near the main road, about $\frac{3}{4}$ of a mile west of Leroux's hotel at the Cascades; and from thence runs straight to the shore of the Ottawa, 1,100 feet to the east of the foot of the old Cascades Canal. The total distance from shore to shore is 13.85 miles, and between the curves of 16 feet water at each end 14.20 miles.

About a quarter of a mile from the shore at Macdonald's Point, the proposed line will be traversed by the Canada Atlantic Railway, a bridge for which across the St. Lawrence is now in course of construction. The north abutment of this structure is about 1,000 feet from the point of intersection of the two lines.

It is proposed to construct the necessary swing bridge to carry the railway over the canal, the guard lock, supply weir, and road bridge in combination. They will be placed inland a short distance from the shore, and where it is almost certain good foundation of solid clay will be obtained; whilst a portion of natural ground left between these structures and the river or lake, will partly serve the purpose of a coffer dam. The main road between the Côteau and Cascades can be crossed over the upper wings of the guard lock, on the south side of which the raceway and supply weir will be placed. The channel from the weir will be carried eastward below the pivot pier of the railway swing bridge, which will be built in the line of the dividing wall forming the right bank of the canal, so that it can swing both over the canal and the raceway, the water from which will enter the main channel by several openings at a suitable distance below the lock. This arrangement would, by grouping these structures, probably result in a saving of cost as compared with that necessary for their separate erection, and render their subsequent working and supervision more economical. Besides, there is no apparent reason why the guard lock should be placed a mile down the canal, rather than at the head of it. The increased excavation required for the raceway to and from the supply weir, should for economy's sake cause it to be as short as possible.

The projected line will pass between the English church and the parsonage, avoiding both, but an alternative route can be had to the north, if desired. The latter would be in somewhat deeper cutting and would enter the river in a less favourable direction. As a whole, the proposed line, being direct, has been chosen as decidedly the best.

The bay or indentation where it is proposed to make the western entrance into the canal, does not by any means deserve the title which has been bestowed upon it, of the harbour of Coteau Landing. It is in fact a sort of marsh of about 22 acres in extent, lying between McDonald's Point and one to the west of it, with a general depth of water inside from 2 to 4 feet. This place offers, however, some important advantages for the intended purpose. It is immediately at the head of the Coteau Rapids; the current past the point being about $2\frac{1}{2}$ miles per hour, quickly increasing to more than double that rate a few hundred feet further down. It is therefore the nearest practicable point for entrance from the lake. The distance from the shore line to water of the required depth is about 1,000 feet, and an unobstructed and fair channel exists from this point to deep water along the north shore of Lake St. Francis, the direction of which is shown on the map. An entrance pier of about 1,000 feet long would be required on the side next the river. The material arising from the dredging of the entrance channel can be deposited in rear of this pier so as to back it up and form a sort of triangular mole at the head of the canal. Its construction will create a large still water area at the entrance. The channel there should be made at least 16 feet deep at low water and 250 feet wide. The approach to the entrance could be rendered easy by the erection of range lights; and it is believed that when completed the works as designed would prove entirely satisfactory for the purposes intended. A portion of the surplus material from the dredging or excavation at the head of the canal might be

disposed of to some extent along the margin of the river or lake to the west of the proposed entrance.

The distance from McDonald's Point to the crossing of the River Delisle is 2.30 miles. In this length the average cutting is about 19 feet.

The Delisle is a considerable stream. It rises in the county of Glengarry, and runs for over 30 miles in a direction generally south-east to its junction with the St. Lawrence at Coteau Fort. Its declivity is stated to be 6 inches per mile, and its rise during extreme floods is, at the point proposed for the canal crossing, about 5½ feet, where its width is nearly 200, and at the centre its depth is about 6 feet. Although it drains a large area of country, the ordinary summer flow is said to be very small. Just above Sullivan's Falls, its low water surface is about on a level with that of Lake St. Francis but between this point and its mouth the river falls about 16 feet. Its banks are not high, but still it is not probable that a large area of land would be overflowed if the river were dammed as proposed by the south bank of the new canal, and its waters when raised permitted to flow into summit level. At the mouth of this river a dam has been constructed across it, setting the water back so as to give a fall of 5½ feet, and afford power to drive Mr. George Beaudet's grist mill which has four run of stones. During spring freshets the water sometimes flows for several days from 4 to 4½ feet over the lip of this dam, which is 76 feet long. The head race from the St. Lawrence shown on the plan, which, during low water conveys the supply to the mill pond, is, at times of flood, converted into a channel of discharge, and is said to pass a greater volume of water than flows over the dam itself. In this case the maximum discharge must be over 200,000 cubic feet per minute. A rough measurement made recently showed the area of the river at about 600 feet above the Grand Trunk Railway crossing to be about 776 square feet, and the low water flow about 13,500 cubic feet per minute. A regulating weir can doubtless be constructed to control this water should it be received into the canal as suggested.

Further investigation is, however, necessary before finally deciding what is the best plan to pursue with reference to this river. There is, of course, a strong objection to receiving such a volume of turbid water into the canal, as the latter could not afterwards be laid dry, if required, without considerable trouble. It will, therefore, perhaps, be found advisable to pass the Delisle under the canal. The bottom at the crossing is rock, a trench through which could be excavated to a proper depth, to permit of cast iron tubes of say 8 or 9 feet diameter being laid side by side in a bed of concrete prepared to receive them—the spaces all round and over them to be filled in with concrete also—and the ends to consist of masonry walls of suitable dimensions. Such a culvert would pass the flood water without raising the level of the stream to the north of it higher than shown on the plan. It may be stated that the heavy freshets always occur before the time of the opening of navigation in the spring.

Immediately to the west of the Delisle River the "calciferous" rises above the bottom line of the new canal, and in some places there will be 9 feet of rock excavation which will probably amount to over 80,000 cubic yards. This rock is stratified, and appears to be sound and durable. It can be used in the minor structures or broken up to form the lining of the sides of the canal, and will doubtless be of considerable use in its construction. The rock forms the bed of the river Delisle at its mouth, and has been extensively used for building in the neighbourhood. A part of the abutments of the Grand Trunk Railway bridge, where that line crosses a short distance above Sullivan's Falls, is built of it.

Between the rivers Delisle and Rouge, a distance of 4,000 feet, the canal will be in 20 feet cutting. Midway of these streams the River Rouge road will cross. This can be served by a single track bridge, which will also accommodate the travel of the present road following the left bank of the Delisle. With reference generally to the crossing of lots by the canal, it may be said that any line between Macdonald's Point and the Cascades will divide the narrow farms (which at present number about 130) at some point in their length. For 7 miles eastward the line would be on an average about ¼ mile from the river front of the 61 farms traversed in that distance. Between the 7th and 9th

miles the shore of the St. Lawrence sweeps sharply southward and passes the Cedars Village, and in this vicinity the line is nearly $1\frac{1}{2}$ miles from the river and towards the rear of the farms. Between this and the St. Antoine Road (at $11\frac{1}{4}$ miles) it will cross the properties nearly in the middle, gradually approaching the river front again towards the eastern end of the line at Cascades Point.

The River Rouge is a medium sized creek, through which but little water passes during summer. It takes its rise in some marshy ground about 4 or 5 miles back from its mouth, and drains but a small area of country. The side slopes are, however, steep, and the land lying along its margin cultivated, so that when the winter snows are melted there are heavy freshets there. Still it appears probable, from what has been recently observed, that an 8 or 9 foot tube would carry off the flood water with ease.

It may, perhaps, be found practicable to waste a large amount of material on flats, or along the margin of stream, or in low ground in the vicinity of the canal, and in this way reduce the size of the spoils banks that must otherwise be formed along the sides of the cut, which is objectionable on account of the washing of the clay back in the canal, this being difficult if not impossible to avoid.

The line will cross the St. Emmanuel Road at $4\frac{1}{2}$ miles, and is 550 feet north of its junction with the main road along the river. About half way between the River Rouge road and this the canal will be within 550 feet of the river bank, but at the St. Emmanuel Road the distance will be increased to half a mile—that is opposite Point-audiable. At about 5 miles the Rivière-à-la-Grasse will be crossed. It may here be remarked that the term “river” applied to such a creek as this is rather misleading. This inlet, creek, or marsh, runs out at about a couple of miles inland where it is only a ditch. The amount of water discharged is said to be small even in times of freshet, and can be easily passed under the canal in a 6 or 8 feet pipe or culvert.

A little to the west of River-à-la-Grasse, the level of the land is about the same as that of the low water surface of Lake St. Francis. The low grounds of this creek may be utilized for spoiling, as above indicated. The cutting for the canal here is about 15 feet. The St. Dominique road is crossed at 6 miles, and the country between this and the St. Fereol road ($8\frac{1}{4}$ miles) is very flat. At the St. Dominique road the line will be about $\frac{1}{4}$ mile from the river, but at the St. Fereol Road it is $\frac{3}{4}$ mile from the bank at the north end of the Cedars Village.

At the St. Fereol road crossing, the ground is only 1 foot below the assumed low water of Lake St. Francis, but from thence to the St. Antoine Road ($11\frac{1}{4}$ miles) the land slopes gradually downwards to 10 feet below that plane. The line is here almost midway between the river bank and the Chambrery Gully. The slope eastward from the St. Fereol road continues to the top of the bluff, forming the right bank of the most westerly branch of the Ottawa, which edge is about 20 feet below Lake St. Francis and 60 feet above the River Ottawa.

The country between the 11th and 13th miles is generally quite even, but at $12\frac{1}{4}$ miles the line crosses what is known as “Bissonnette Gully.” The bottom of this is about 30 feet below that shown for the canal in the reach between locks Nos. 5 and 6. This ravine is worn out of the clay plateau and affords evidence of the depth of the drift at this point. In fact there seems to be no doubt whatever that between the Delisle river and the exposure of the Potsdam formation at the Cascades there will be no rock encountered in the excavations necessary for the canal.

The gully is 400 feet wide at top, and, as but little water passes there at any time, a pipe culvert of suitable dimensions will doubtless serve the purpose efficiently. The slope of the ground renders it advisable to place the 6th lock near the St. Antoine Road (11.2 miles), which can be passed over its upper wings.

From lock No. 6 to No. 5, which is at the head of the series ascending from the level of Lake St. Louis, the distance will be about 2 miles. The ground of the plateau is flat, and the average depth of cutting on the proposed line will be about 12 feet. Lock No. 6 will have $10\frac{1}{2}$ feet lift. Between the site of the guard lock, at Macdonald's Point, and this lock, the canal should have a bottom inclination of a little over one inch per mile.

As before stated, the line strikes the Ottawa a short distance to the east of the foot of the Old Cascades Canal, and about a mile from the junction of that river with the St. Lawrence at the end of the Cascades Point. This point is chiefly composed of rock and is nearly a mile long with an average width of a little over $\frac{1}{4}$ of a mile. Midway of it the Cascades Canal was cut by the Imperial Government in 1814. This cut is about 1,500 feet long, and at the lower end there are two locks with an aggregate lift of 12 feet. The masonry of these is partly in fair condition, even now, but a large portion is in ruins—a good many of the stones having been taken away for building and other purposes.

As will be seen from the small geological map, the Potsdam formation of the Beauharnois anticlinal here crosses the St. Lawrence from the south side, and is exposed all along the shores of this point. It also forms Isle Perrot opposite, and both sides of the wide branch of the Ottawa at its main outlet from the Lake of the Two Mountains. At the eastern end of the canal line on the point, this rock dips rapidly towards the west, so that at a short distance inland from the edge of the bluff, near Leroux's hotel, a well was dug for over 100 feet in the clay.

The location line marked on Mr. Baillairgé's map leaves the Ottawa at nearly the same point as that chosen by Mr. Mills in 1834. This appears to be the most suitable place for an entrance, as 17 feet of water is there reached at about 600 feet from the shore, and judging from my own observations this spring, and the fact that the wharf and lower entrance of the Cascades Canal have not sustained any damage from ice, although both on the shore—it offers in all probability the best site for the entrance works of the enlarged canal.

Mr. Baillairgé's line ascends the bluff and strikes diagonally across the Cascades Point to the River St. Lawrence, which it touches at $\frac{1}{2}$ a mile from the Ottawa entrance. It then curves along the high bank of the river for another $\frac{1}{2}$ mile, partly taking in a couple of bays or indentations, and placing the canal in side cutting on its margin, which is here from 40 to 45 feet in height.

If this line has been located for the purpose of reducing the earth work quantities, it is to be feared that this advantage is all that can be claimed for it; whereas on the other hand there would be considerable risk in placing the canal and its embankments in such a position. The material forming the river bank has, all along for miles to the westward, such a tendency to slip as to cause considerable trouble in maintaining the public road bordering it, which has had in fact to be moved inland at several places where heavy slides have occurred. This fact alone would, in my opinion, render it inadvisable to adopt this line. It appears better to ascend the bluff in the manner shown, where the material will doubtless be solid and the lock foundations safe, even if the quantities of excavation are thereby considerably increased. It is also considered best to place the entrance lock inside the shore line instead of in partly deep water outside as shown on the plan referred to. This would doubtless increase the quantity of rock to be excavated, but it would put the works in a safe position; and probably save a considerable outlay for unwatering. It may be stated, in this connection, that recent improvements have rendered the question of rock excavation under water much less formidable than when the present location was made in 1874. In short, the proposed line as shown on the accompanying plan will run straight from the entrance for about a mile, and on this five locks, each of 14 feet lift, are located, with weirs, raceways, &c., to the north of the canal.

Experience seems to show that if there is a length of about two and a half to three times that of the longest vessel navigating the canal, between its locks, there will be no difficulty in passing. Therefore a lock and reach need not occupy more than about 1,000 feet. Cases can be referred to where such an arrangement has proved unobjectionable. It is, of course, an advantage to have a large surface to draw from, but if the water sent down for supply be judiciously introduced into each by a sufficient number of openings from the raceway below the weirs and towards its middle or lower end, injurious currents may, as previously stated, be avoided, and the canal worked efficiently. It is with this view that the proposed location is submitted. Wherever it is possible, side

basins should be formed; and it might prove judicious to establish as large a one as circumstances will permit at the head of this range of five locks.

The "Quinze-Chiens" road may be passed over the upper wings of Lock No. 4, and a connection made with the Cascades wharf by the construction of a road along north side of the canal, or the crossing may be made on one of the lower locks if deemed advisable. In either case one bridge will suffice.

If the proposed arrangements are followed, Lock No. 1 will be in heavy rock excavation. It is said that the lower strata of the Potsdam afford good building stone but they would probably be so hard to cut that it is not likely they will be used when good limestone can be had at moderate cost. At all events the large amount of rock which will have to be taken out of this pit will form a solid defence against ice if placed in rear of the north entrance pier where it will reach out into deep water.

The channel to the lock will be formed by the removal of the rock for a width of about 250 feet and to a depth of 16 feet at low water. The guide piers to be about 600 feet long each. That on the north side to have a light on its outer end, together with a range light on shore.

A deep water channel from this entrance to the middle of Lake St. Louis will be alluded to further on.

The reach between locks 1 and 2, will be in about 18 feet rock cutting. The raceway to the north of this, 50 feet wide, will have a large waste weir at its lower end, on the side of the canal next the river. The prism to be 110 feet wide at bottom with side slopes of $\frac{1}{4}$ to 1. Timber booms to be provided where the sides are of rock.

Lock No. 2 will be in half rock excavation, 16 to 18 feet deep, and at the foot of the bluffs as shown. The Old Cascades Canal will cross the proposed line at the east end of the site of this lock. The reach between locks 2 and 3, together with the adjoining raceway will be in over 50 feet clay excavation. The distance between the tops of the slopes, if made $1\frac{1}{2}$ to 1 above the level of the towing path, will be about 290 feet. The sides of the canal and raceway in clay to be lined with walls of rubble masonry, laid in cement mortar. This reach and Lock No. 3 are in the heaviest cutting.

The reach between locks Nos. 3 and 4 will also be in clay cutting about 30 feet deep together with the raceway on the north side.

Between 4 and 5 and the lock pit for No. 5, the average cutting will be about 15 feet, the level of the water surface of the canal being nearly the same height as the natural surface of the ground. Above No. 5, the canal level to be only 9 feet below the water in Lake St. Francis, and about 10 feet over the ground.

It is believed that, all things considered, the direct line at the eastern end is the best. There is not apparently any practical way of surmounting the bluff by side slopes which would compensate for the objections to curvature and other inconveniences attending this plan. A line along the river bank should not, in any case, be adopted.

In the discussions which have taken place with reference to the suitability or otherwise of the Cascades Point for an entrance to a large canal, considerable prominence has been given to the question of the time at which the ice disappears from there in the spring, as compared with the date of its departure from the foot of the Beauharnois Canal. The most conflicting evidence is given on this point, some persons alleging that navigation opens earlier on the north shore, while others as unhesitatingly affirm that the ice is clear from the south side a fortnight earlier than from the north shore. From what I can learn, and have observed, it appears that the time of its leaving from either side is so variable that both parties may be right if they found their conclusions on particular seasons. It is, however, quite certain that when there was a navigation to Cascades wharf, the records between 1846 and 1853 showed that steamers arrived there each of those years earlier than the opening out of the channel to the foot of the Beauharnois Canal. This statement is corroborated by a large amount of evidence apparently trustworthy. It appears also certain that in severe winters anchor ice grounds on and around the shoals which lie between the St. Lawrence and the Ottawa off Cascades Point, and remains there until some time after the main channel is clear. The dates at

which those ice fields leave are various and uncertain, but their presence does not seem to interfere with a deep water channel of entrance to the canal, as will be seen on examining its position as laid down on the map. This spring, I carefully observed the movement of the ice on both sides of the river. It cleared from the lower entrance of the Beauharnois Canal about the 10th of April, and from the Ottawa opposite Cascades Point about ten days later. On the 15th April, a steamer broke through the ice at Valleyfield in order to get into the head of the Beauharnois Canal; and there is no doubt that an entrance could have been effected to the foot of the Old Cascades Canal by similar means at the same date, the ice in both places being very rotten. My investigation of this question leads me to the conclusion that as regards the time of opening or closing of navigation on either side of the river, the western entrance to the Beauharnois Canal would naturally freeze up earlier and remain blocked later than either one side or the other at the lower end, where the ice would move out with the spring rise of the river; whereas it is firmly held in the area of still water created by the dams at Clark's Island and Valleyfield.

It also appears as if no rule could be arrived at as to the probable movements of the ice where the causes of its formation, the fluctuation of the water, the direction of the currents of the river, &c., are ever varying. The phenomena of no two winters are alike, but there appears to be no reason why a canal constructed on the north shore of the St. Lawrence in the position proposed should remain closed by ice after the usual period of the commencement of navigation; whilst it is probable that the current created at the foot of such a large channel by the continued discharge of water from it would have a great tendency to keep the lower entrance clear.

The deep water line referred to as existing between the old Cascades Canal and the main body of lake St. Louis is shown on the accompanying map, from which it appears that in an easterly direction and almost on a line with the entrance of the proposed canal, the soundings vary from 17 to 40 and 50 feet, and the channel for two and a half miles, or until well out into the lake, is sufficiently broad for the largest class of vessels to navigate with ease. The shoals laid down will, however, require to be lighted in order to make the lower entrance safely accessible at all times during the season of navigation.

It is not proposed to enter into details of comparison between the line now projected and those previously discussed. It is believed that its chief features will be found those best adapted to the wants of navigation, such as that now contemplated. The route is entirely inland, and throughout in solid ground. It has the minimum of length consistent with practicability. The western entrance is easy of access and seems to be in the natural position—being in the line of the steamboat channel on the north side, whilst it is almost entirely free from ice during the winter. The eastern entrance, although from the nature of the ground costly to construct, will, when completed as indicated, doubtless fully and satisfactorily answer the intended purpose.

The question of the quantity of land required for the depositing of the large amount of material which will have to be thrown to spoil, especially towards the western end of the line, has received due consideration, and its probable cost is included in the approximate estimate herewith submitted.

IV. Comparison of Routes, etc.

It is now proposed to attempt a comparison of the routes on both sides of the river, on the basis that the line projected on the north shore is adopted, subject, of course, to modifications in detail; and that on the south shore a new eastern entrance must be made, together with a new line of canal between and including the locks 6 to 10; the existing canal to be dealt with in the manner proposed for 8½ miles, or from lock 10 to the basin 1¼ miles below the guard lock, where the diversion in rear of the town of Valleyfield would begin and be continued for 3¼ miles to Knight's Point. A new guard lock, supply weir, &c., would be built at the latter place, and an enlarged channel carried out from it to deep water about ¾ mile from the shore. The whole distance being as previously stated, 13.67 miles.

With reference to the south shore lines, it is manifest that whatever number of locks may be adopted, all of those together with the regulating weirs, culverts, bridges, and in short the whole of the structures of every description must be built to the enlarged dimensions without any saving in cost, owing to the existence of the present canal; but on the contrary, operations will in many places be embarrassed in the attempt to execute these works in close proximity to the existing structures, without interrupting or impeding the navigation; so that it is reasonable to say that the amount of work required to change this line of navigation to the new standard would cost considerably more than the same quantity performed on new ground and untrammelled by such adverse conditions.

Although the south shore presented some important inland advantages for the formation of a canal to the scale adopted when it was built, it is equally clear that serious drawbacks were immediately experienced upon its being open for traffic in 1845, from the shoals and currents of the western entrance. These difficulties were obviated by the adoption of a plan, which, whilst it afforded the required relief to the navigation, demonstrated the inadvisability of interfering with the regimen of such a river as the St. Lawrence. The dams constructed to block up the south channel and connect the head of Grande Isle with Clark's Island gave more than the necessary draught at the entrance, but at the same time caused damage by flooding the land along the margin of Lake St. Francis, which involved an outlay equivalent to about one third of the estimated first cost of the canal, or over \$400,000.

It would be of little interest to draw attention to these facts at this late period, were it not that the objections to this entrance, experienced, but not foreseen, are relatively much more formidable in view of the greatly increased scale of navigation about to be established.

Of the water space included to the east of a line drawn from the west point of Clark's Island to the shoal at the head of Grosse Point Island, nearly three-quarters has a less depth than 14 feet, and in many cases the shoals are barely covered at low water. The bottom is composed of clay and boulders overlying rock, and the entrance is exposed during westerly gales to the full sweep of the lake. The channel from deep water outside to the head of the canal (about $1\frac{3}{4}$ miles long,) is shallow and crooked; at Valleyfield Red Light, there is at low water barely 10 feet. The records of this entrance show many disasters to vessels arising from its dangerous character.

If craft of the present size experience great difficulty in keeping off the surrounding shoals in heavy weather, it is evident that the improvements necessary to make a channel at all practicable for vessels of over 2,000 tons would not only involve a very large expenditure, but it also seems clear that even the best line formed in such a vicinity could not favourably compare in point of safety with an enclosed canal.

The Valleyfield entrance is also objectionable for the reason that ice naturally forms earlier and remains later in the area described than in the open reaches of the river or lakes where it leaves with the spring rise.

As to the inland portion of the line between Knight's Point and the present canal, it may be said that although the levels of the ground are favourable, the character of the excavation and its position will render it costly, whilst to enlarge the present canal will render necessary the objectionable length of channel outside above alluded to, a course which under any circumstances appears inadvisable to adopt.

If the foregoing statements and views are correct, it is apparent that the proposal to construct an entirely new canal on the north shore has strong points to recommend it.

The entrance at Macdonald's Point can be made easily accessible at all times for vessels of the largest class, at a moderate outlay, in fact for only a small part of that required to provide a suitable channel from deep water in Lake St. Francis to the head of the Beauharnois Canal. The saving thus effected at the outset will at least cover the increase on the north shore of moving the much larger mass of excavation necessary there, and also that of a considerable outlay for land, on which to deposit the surplus material.

One large stream, two smaller water courses and a deep gully have to be dealt with on the north side. It is, however, probable that the cost of doing this efficiently would be less than that of taking out and rebuilding, in the winter months, the ten culverts of various sizes which pass the drainage under the Beauharnois Canal.

The general character of the excavation on the north shore is clay. On the south side the excavation will be clay mixed with boulders to a greater or less extent.

If the line adopting similar lifts is approved, the number of locks on the Beauharnois will be two more than on the opposite side, which will have the effect of lengthening navigation somewhat, and increasing the risk of accidents.

It may also be said that the increased cost of doing new work alongside of, or connected with, old, under such adverse circumstances as would likely be experienced in an attempt to reconstruct the Beauharnois Canal, is somewhat difficult to determine, varying as it must in every case. The prices set in the estimates subjoined are chiefly based upon the relative character of materials to be excavated on either shore. The values for the north side can be fixed with comparative accuracy, whereas it is likely from the causes above indicated that those stated for the south side will be liable to increase.

With these preliminary remarks it is now proposed to submit the following approximate estimates of probable cost of the several lines and modifications of them as follows:—

1. *Beauharnois Canal*.—(a) New line and *five locks* at Melocheville end (south side of present canal).
(b) Central portion enlarged for $8\frac{1}{2}$ miles.
(c) New line to Knight's Point, and channel to deep water in Lake St. Francis.
2. *Beauharnois Canal*.—(a) New line and *four locks*, &c., Melocheville end, line at entrance to north of present harbour; and the rest south of existing canal.
(b) Other portions as above.
3. *Beauharnois Canal*.—(a) Cost of enlargement of western end from basin where line diverges to Knight's Point via canal through Valleyfield and forming the enlarged channel through deep water to Lake St. Francis ($1\frac{3}{4}$ miles) in the general line of the present navigation.
4. North shore line as proposed.

I am, sir, your obedient servant,

THOMAS MONRO, *M. Inst. C.E.*

JOHN PAGE, Esq., Chief Engineer of Canals, Ottawa.

ESTIMATES.

1. BEAUHARNOIS CANAL.

(a.) *Melocheville and Entrance (South side of present Canal) line in red. Five locks located as close as possible to existing ones:—*

30c.	Earth excavation	362,000	\$108,600
\$1.25.	Rock	134,500	168,125
\$4.	Rock in entrance channel	23,000	92,000
(No. 5)	Locks and weirs .....	.....	900,000
\$180,000			
\$6.	Rubble masonry in cement	5,000	30,000
	Lining, lock houses and damages .....	.....	75,000
\$50.	Entrance piers	1,500	75,000
	Unwatering locks and contingencies .....	.....	100,000
			\$1,548,725

(b.) Central Part 8½ miles (re-constructed).

35c.	Earth excavation.....	1,750,000	\$612,500
\$1.50.	Rock	70,000	105,000
11,12,13.	3 locks and weirs.....		540,000
\$180,000			
	Culverts and bridges		200,000
	St. Timothy bridge.....		30,000
	Canada Atlantic Railway bridge.....		50,000
50 a.	Land and damages		100,000
	Lining of banks, &c.....		100,000
\$5.	Rubble masonry in cement.....	4,000	20,000
			<u>\$1,757,500</u>

(c.) New line to Knight's Point and channel to deep water ¾ mile.

\$2.50.	Dredging and removal of boulders, rock, &c.	375,000	\$937,500
\$50.	Entrance piers (1250 each side, lights, &c).		125,000
35c.	Excavation, including boulders.....	1,180,000	403,000
\$1.50.	Rock excavation at west end	112,000	168,000
	Grand Trunk Railway bridge and diversion		125,000
	Guard lock, supply weir, raceway, &c.....		225,000
	Road bridge—Durham road.....		30,000
	Land 250 acres and damages (Valleyfield).		50,000
	Culvert		15,000
			<u>\$2,078,500</u>
	Total		<u>\$5,384,725</u>

THOS. MONRO,

M. Inst. C. E.

2. BEAUHARNOIS CANAL.

(a.) Melocheville—New Line with 4 Locks—Entrance Lock North of Present Harbour—Red Line on Plan.

\$50.	Piers at entrance.....	1,500	\$ 75,000
\$4.	Rock in Harbour.....	15,000	60,000
\$1.25.	Rock in lock pits and reaches.....	110,260	137,825
	Four locks and weirs and bridges over locks		825,000
30c.	Earth excavation.....	290,000	87,000
\$6.	Rubble masonry in cement.....	6,000	36,000
\$4.	Dry masonry.....	4,000	16,000
	Land and damages.....		50,000
			<u>\$1,286,285</u>
	As above.....		3,836,000
	Total		<u>\$5,122,825</u>

3. BEAUHARNOIS CANAL.

(b.) Enlargement from Basin via Present Line to Head of Canal—Guard Lock at Valleyfield, and 1¾ Miles of Channel to Deep Water.

35c.	Earth excavation.....	558,000	\$ 195,300
\$4.	Rock in canal bottom.....	39,750	159,000
\$3.	Dredging and removal of boulders and rock in channel.....	400,000	1,200,000

Guard lock, raceway, weirs, &c., and bridge	250,000	
Unwatering and contingencies, lights, &c.	100,000	
		\$1,904,300
		1,548,725
		1,757,500
Total		<u>\$5,210,525</u>

Practically the same as line *via* Knight's Point.

NORTH SHORE LINE.

Cascades End.

25c. Earth excavation	500,000	\$ 125,000
No. 5. Locks and weirs		1,000,000
\$4. Rock under water	40,000	160,000
\$1.25. Rock in lock pits	85,000	106,250
		50,000
\$5. Retaining and side walls, rubble in cement	25,000	125,000
Unwatering, &c		75,000
Piers and lights		50,000
		<u>\$1,691,250</u>

Central Portion of Canal.

25c. Earth excavation	5,250,000	\$1,312,500
\$1.25. Rock west of River Delisle	80,000	100,000
Lock No. 6, weir and railway bridge, walls		210,000
Regulating weir and 3 culverts, unwater-		150,000
ing, &c		120,000
Four single-track bridges		
		<u>\$1,892,500</u>

Western Entrance.

30c. Earth excavation	200,000	60,000
Lock, weir and road bridges		220,000
\$6. Rubble masonry in cement in side walls of		
raceway	15,000	90,000
Railway bridge and approaches		50,000
40c. Dredging at entrance, clay and gravel,		
piers, &c	80,000	75,000
Unwatering, damages, &c		50,000
		<u>\$ 577,000</u>

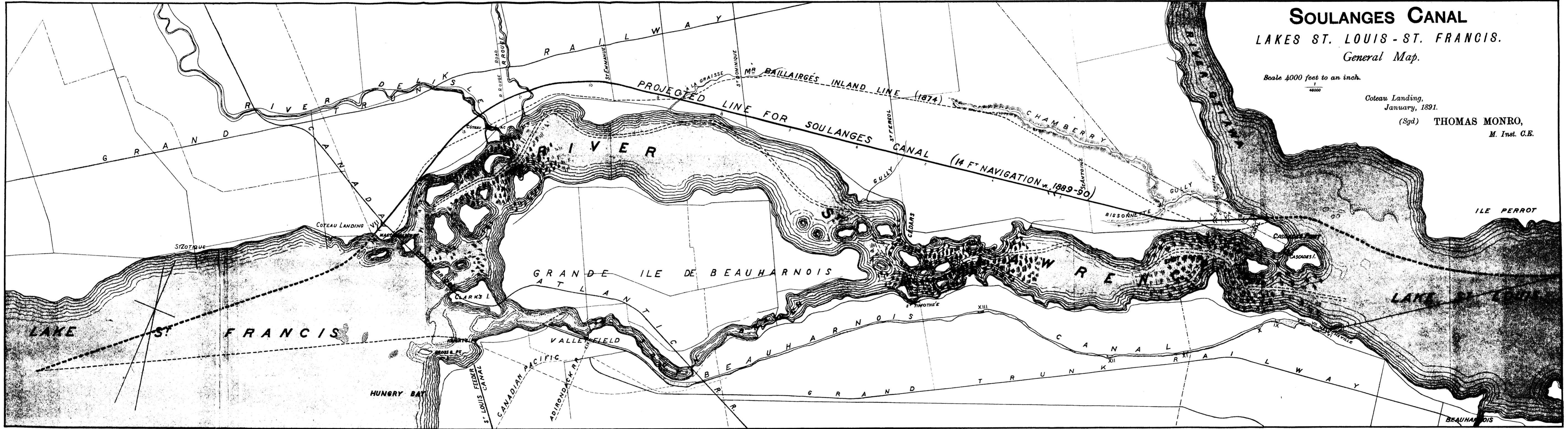
General.

Land and damages	\$200,000
Fencing and ditches	30,000
Stone linings	150,000
Contingencies	220,000
	<u>\$ 600,000</u>

Total	<u><u>\$4,760,750</u></u>
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THOMAS MUNRO,

M. Inst. C. E.



SOULANGES CANAL

LAKES ST. LOUIS - ST. FRANCIS.

General Map.

Scale 4000 feet to an inch.
1/48000

Coteau Landing,
January, 1891.
(Sgd) THOMAS MONRO,
M. Inst. C.E.

 REPORT OF MR. BAILLAIRGE ON THE CEDARS CANAL, 1874—TWELVE FOOT NAVIGATION.

DEPARTMENT OF PUBLIC WORKS, CANADA,
OTTAWA, 26th October, 1872.

SIR,—The Hon. the Minister having been informed that the enlargement of the Beauharnois Canal to the dimension recommended by the canal commissioners in their report dated the 24th February, 1871, viz. :—

Locks 270 feet in length between the gates, 45 feet in width, and 12 feet of clear draught over the mitre sills, and the preparation of the approaches thereto to the required depth, would entail an expenditure exceeding the cost of the construction of a new canal on the opposite side of the river, has decided upon having a survey made to determine this important fact.

I am therefore directed to instruct you to take the necessary steps to have a survey made of the north shore of the river St. Lawrence between lakes St. Louis and St. Francis, and to report as soon as practicable in order to enable the Minister to arrive at a decision in the matter.

I have the honour to be, sir, your obedient servant,

F. BRAUN, *Secretary*.

DEPARTMENT OF PUBLIC WORKS,
OTTAWA, 17th September, 1874.

F. BRAUN, Esq., Secretary of Public Works, Ottawa.

SIR,—After the receipt of your letter No. 16909, of the 26th October, 1872, copy of which is prefixed hereto, I at once took the necessary steps to have a survey made of the various lines that had been suggested or that appeared to be favourable for the contemplated canal on the north shore of the St. Lawrence between lakes St. Francis and St. Louis, and which I shall hereafter designate under the name of the "Cedars Canal."

On the recommendation of the Hon. the Minister of Public Works the field operations were entrusted to F. C. Farijana, C.E., who commenced the survey on the 6th of November, 1872, and completed it in February, 1873.

He submitted plans and profiles of the various lines he had examined and a report thereon, on the 12th of April following.

Shortly afterwards he was directed to make the necessary observations with respect to the breaking up of the ice at the head and foot of the Beauharnois Canal upon the south shore, and of the projected Cedars Canal; he was instructed at the same time to ascertain the volume of water discharged during the freshets and at other seasons by the principal streams to be traversed on the north shore. His report on these subjects, together with diagrams of the ice and other data, were furnished on the 12th of May of the same year.

Further observations respecting the position and movement of the ice, and other examinations were made prior to and since the opening of navigation, this year, after which the canal route was marked out for the inspection of the chief engineer.

THE SURVEY

has been [made as requested for the construction of a canal 100 feet wide at bottom, with locks 270 feet in length and 45 feet in width between the gates and with 12 feet draught of water over the mitre-sills.

The time fixed for its duration having been at first limited to a few months during the most unfavourable season of the year, the field work did not embrace any more than what was indispensable for ascertaining the most advantageous route for the projected canal and the probable cost of its construction.

When Col. Farijana furnished me with the documents he had prepared in connection with the work, he informed me that his measurements and calculations had refer-

ence only to a canal adapted to steam navigation, on which account he had made no provision for a towing path. He subsequently modified his report and increased the quantity of excavation for the towing path, but this was only approximate and not based on measurement.

After his connection with the survey had ceased, the omission had to be supplied by a re-examination of the ground and various lines of levels; this, together with the consequent modification of the plans, profiles and calculations, has been the cause of considerable delay in the preparation of the report, maps and estimate now submitted.

Another cause of delay is due to the final location survey of the Baie Verte Canal and my report thereon, which, together with other works, occupied much of my time during the past and present year.

THE MAPS

furnished herewith are two in number, one of them a general map on a scale of 1,600 feet to the inch, shows the depth of water in the various channels, the rapids, shoals, islands and both shores of the St. Lawrence, together with the Beauharnois Canal and the several lines examined in connection with the Cedars Canal, the other on a scale of 400 feet to the inch applies more particularly to the projected water communication on the North Shore.

These maps are based partly on the surveys made by Alexander Stevenson and André Trudeau, C. E., in 1830-31; David Thompson, in 1832; J. B. Mills, C. E., in 1833; A. LaRue, P. L. S., in 1836; H. G. Thompson, C. E., in 1842; W. R. Casey, C. E., in 1842; J. Stewart and G. F. Baillairgé, C. E., in 1851-52; by Messrs. Maillefert and Rassloff, submarine engineers, in 1853-54; and partly on the data furnished by F. C. Farjiana, C. E., in 1873, and on various examinations made this year.

The soundings indicated have been taken chiefly from the maps of Messrs. Thompson, Stewart, Maillefert and Rassloff, and partly from actual measurement; they have been reduced throughout to the lowest summer water, and are marked in various colours, according to the different maps from which they were taken, viz. :—

Red.....	Taken from the map of H. G. Thompson.		
Blue.....	do	do	Maillefert and Rassloff.
Green.....	do	do	James Stewart.
Yellow.....	do	do	Adolphe LaRue.
Black.....	Taken during the recent survey.		

Mr. J. Stewart, who may be considered as one of the most reliable authorities respecting the water levels of the St. Lawrence, from lake St. Francis to lake St. Louis, reduced his soundings to ordinary summer level; he considers that this level is represented by a line 11 feet 6 inches above the top of the upper sill of the guard lock No. 14, of the Beauharnois Canal, and that the lowest summer water is about 6 inches below ordinary low water, or 11 feet over the sill.

Messrs. Maillefert and Rassloff referred their soundings to the same bench marks and levels as those adopted by Mr. Stewart; their maps also represent the depth of the water at its ordinary summer elevation.

In the maps now submitted, the lowest summer water level to which the soundings have been reduced is 6 inches lower in lake St. Francis and downwards than the low water level assumed by Mr. Stewart, and coincides with the line about 10½ feet above the top of the upper sill of the guard lock No. 14; in lake St. Louis the lowest water line corresponds to a depth of about 9 feet on the lower sill of the entrance lock No. 6, at the foot of the Beauharnois Canal. The soundings, therefore, on the maps of the recent survey have been referred to, and represent a line 1 foot lower than those of Messrs. Stewart, Maillefert and Rassloff's surveys; the soundings taken from Thompson's and LaRue's maps have not been reduced, as they are stated to indicate the lowest water.

PROFILES.

Those on the general map are drawn to a scale of 1,600 feet horizontal and 40 feet vertical per inch.

The other profiles, each of which is on a separate roll, are drawn to a scale of 400 feet horizontal and 20 feet vertical per inch, and are two in number, one being for the inland route through Rivière à la Graise and Chamberry gullies and the other for an inland route passing south of the gullies.

They show the elevation and nature of the ground to be excavated according to the borings made.

DATUM.

The datum line used as a basis of reference for all the elevations stated in this report and for all levels shown on the maps and profiles is the same in all cases.

It is 99.50 feet below the lowest and 107 feet below the highest known water level of lake St. Louis at the mouth of the Cascades Canal, and 181.90 feet below the lowest assumed water, and 185.90 feet below the highest observed water level of lake St. Francis at McIntyre's Point, the level at Pease wharf being 182.13, during the season of navigation; Pease wharf is nearly one mile above McIntyre's Point.

According to simultaneous observations made in summer, on the north and south shore, the level of 99.50 feet corresponds to a depth of 9 feet on the lower sill of lock No. 6 at the foot of the Beauharnois Canal, and the level of 181.90 to a depth of 10½ feet on the upper sill of the guard lock No. 14, at its head.

The datum line is therefore 171.40 feet below the top of the sill of lock No. 14, and 90.50 below the top of the sill of lock No. 6.

LAKE ST. FRANCIS.

From McIntyre's Point upwards follows a general course of S. 50° W., is about 32¾ miles in length, and from 14 to 90 feet in depth, according to former surveys by David Thompson and A. LaRue.

This lake generally attains its greatest elevation during the first three months of the year, and its smallest elevation during the last four months.

Before the dams at the upper terminus of the Beauharnois Canal were commenced (May, 1849) the depth of water on the upper sill of the guard lock No. 14 varied from 10 to 11½ feet during the first three months of 1847-48-49, and from 8 feet 8 inches to 10 feet during the last four months of 1847-48.

From the time the dams were closed, in November, 1849, to the summer of 1874, the depth varied from 9 feet 7 inches to 14 feet 3 inches, and was generally 11 to 12½ feet during the first three months; it varied from 10½ to 14½, and was generally 11½ feet or more during the last four months.

The greatest elevation of lake St. Francis above the sill of lock No. 14 was 14½ feet in November, 1860, or 185.90 above datum.

During the season of navigation the depth on the sill is generally from 11 to 12 feet or more.

The lowest water during the same season is represented by a depth of 10½ feet on the sill, as before stated; this is 4 inches less than the lowest water that has been observed during the season of canal navigation, the smallest depth then registered since the dams were closed in November, 1849, being 10 feet 10 inches; but as the water fell to 10 feet 4 inches in April, and to 10 feet 8 inches in December, 1872, I have assumed 10 feet 6 inches as the lowest.

The lake has fallen as low as 9 feet 7 inches, but this was during winter, in February, 1872, which was the first time since 1849.

The deep water channel of this lake is chiefly towards the north side and is generally straight and broad.

The prevailing winds are south-east in spring, south-west in summer, west and south-west in autumn, north and north-west in winter.

Fogs are prevalent towards the latter part of September and beginning of October, and arise chiefly with the north-east and north-west winds. They seldom cause any serious detention on the north shore, as they are generally driven towards the south shore by the winds with which they arise. They are of very rare occurrence with south or

south-easterly winds, because these winds are too warm to condense the moisture of the atmosphere.

LAKE ST. LOUIS.

From the outlet of the Ottawa, between Isle Perrot church and Cascades Island, follows a general course of N. 50° E., is about 15 miles in length and generally from 14 to 20 feet in depth, through the channel, according to the survey of A. LaRue, in 1836.

The time of its highest and lowest elevations corresponds to that of the other lake.

During the first portion of the year the depth of water on the sill of lock No. 6, at the foot of the Beauharnois Canal, varies from 12½ to 20 feet, and during the last portion of the year from 9 feet 2 inches to 12 feet, the usual range being from 10 to 11 feet. The greatest depth registered was 20 feet in January and February, 1873, or 110.50 above datum.

From the beginning of April to the end of August the depth is generally from 10½ to 12 feet or more.

The lowest water that has ever been observed since August, 1852, at lock No. 6, is represented by a depth of 9 feet on the lower sill in August, 1872. Previous to the latter date the least depth was:—

9' 6" to 9' 2"	In October and November, 1865.
10' 0" to 9' 6"	November and December, 1867.
9' 6" to 9' 2"	September, October and November, 1868.
9' 5" to 9' 3"	October, November and December, 1871.

The highest and lowest water of both lakes, each month, are indicated on one of the appended tables from the time it was first registered, or from August, 1852, for lake St. Louis, and January, 1847, for lake St. Francis, up to the present time.

The deep water channel through this lake is more irregular than through lake St. Francis, the number and size of its tributaries being much greater; these are the rivers St. Louis and Chateauguay on the south shore, and the two outlets of the Ottawa on either side of Isle Perrot towards the north.

The worst winds on lake St. Louis are the east and south-east in spring; in summer the wind is generally from the westward.

WATER GAUGES,

at the outset of the survey, were established along the St. Lawrence at the following places, viz.:—At Coteau Landing, upon the north side of the crib-work forming the lead of Pease wharf; at the post road bridge, across the mouth of the Rivière Rouge, upon the south side of the eastern abutment, below the village of St. Ignace, otherwise known as Coteau du Lac; at Pointe à Biron, nearly opposite the dwelling of Cesaire Monpetit dit Potvin; at the south-east corner and afterwards at the south-west end of the wharf above the mouth of the head race of De Beaujeu's grist mill, near the lower portion of Cedars village; and at the lower entrance of the lock at the mouth of the old Cascades Canal, which was built by the Imperial Government in 1817, and now belongs to the Federal Government.

The rise and fall of the water in the lakes and intermediate reaches of the river have been registered daily up to the present time, with the exceptions noted in the registers, at each of the above-named places. The daily variation or elevation of the water surface of the river and lakes has been referred to the same datum line as that of the canal survey, and is shown on the appended tables, which also show the corresponding fluctuations of the water at the upper and lower entrance of the Beauharnois Canal.

The daily variation or elevation of the water on one shore is seldom the same as on the other; it differs according to the effects produced by wind, ice and freshets, and is greater in winter than in summer.

The difference observed in lake St. Francis was generally from 1 to 4 inches less on the south than on the north shore, except in December, 1872, January and December, 1873, when the elevation of the lake was from 1 to 13 inches less at lock No. 14 than at Coteau Landing.

In lake St. Louis the water was generally higher at the lower entrance of the Beauharnois Canal, over the sill of lock No. 6, than on the gauge at Cascades, the surplus height.

December, 1872, from 2 inches to 3 feet. January and February, 1873, from 2 feet 10 inches to 3 feet 9 inches, except on the 27th, 28th and 29th, when it was from 6 to 6 $\frac{3}{4}$ feet. January and February, 1874, from 6 inches to 4 feet 9 inches, except on the 27th, 28th and 29th, when it was from 4 $\frac{1}{4}$ to 6 $\frac{3}{4}$ feet.

During the remainder of the time, or from October, 1872, to June, 1874, it was generally from 1 to 5 inches.

The great difference during the winter months is due to the accumulation of ice at the head of the lake and at the outlet of the Ottawa.

THE INLAND ROUTE,

14.28 miles in length from shore to shore, or 14.49 miles in length from end to end of dredging, commences at the upper end of McDonald's or McIntyre's Point, upon its south-west side at the foot of lake St. Francis, half a mile below the village of Côteau Landing; it terminates on the river Ottawa, at a point 1,100 feet below the lower entrance of the Cascades Canal, and one mile above the junction of the Ottawa and St. Lawrence.

In its eastward and descending course it traverses the main north shore road twice, and also four streams, seven concession roads, and one gully and brook, in the following order and at the distances stated, viz. :—

(Chains of 100 ft.)

- | | |
|--|---|
| 1. Main road, at 702 from Cascades terminus and at one mile below Coteau Landing, English church. | |
| 2. Rivière à Delisle, at 624 from Cascades terminus, and at one mile below Coteau Landing, English church. . . . | 1,450 feet from outlet.
850 feet north of main road.
4,700 feet below Sullivan's falls. |
| 3. Road to St. Polycarpe, at 621 from Cascades terminus, and at one mile below Coteau Landing, English church | 900 feet north of main road. |
| 4. Rivière Rouge road, at 607 from Cascades terminus, and at one mile below Coteau Landing, English church | 700 feet north of main road. |
| 5. Rivière Rouge road, at 594 from Cascades terminus, and at one mile below Coteau Landing, English church | 750 feet from outlet.
650 feet north of main road. |
| 6. St. Emmanuel road, at 522 from Cascades terminus, and at one mile below Coteau Landing, English church | 200 feet north of main road. |
| 7. Rivière à la Graisse, at 470 from Cascades terminus, and at one mile below Coteau Landing, English church | 1,350 feet from outlet.
1,100 feet north of main road. |
| 8. St. Dominique road, at 425 from Cascades terminus, and at one mile below Coteau Landing, English church | 3,400 feet north of main road. |

9. St. Féréol road, at 309 from Cascades terminus, and at one mile below Coteau Landing, English church	}	7,600 feet north of main road.
10. St. Grégoire road, at 299 from Cascades terminus, and at one mile below Coteau Landing, English church		
11. St. Antoine road, at 150 from Cascades terminus, and at one mile below Coteau Landing, English church	}	5,350 feet north of main road.
12. Bissonette gully and brook, at 82 from Cascades terminus, and at one mile below Coteau Landing, English church		
13. Main Road, Cascades, at 47 from Cascades terminus, and at one mile below Coteau Landing, English church	}	Opposite old lock, Split Rock. 1,150 feet above Quinze-Chiens road.
14. Old Cascades Canal, 9½ miles from Cascades terminus, and at one mile below Coteau Landing, English church		
		3,700 feet above former steamboat landing, Cascades.
		590 feet south of lower entrance of old lock.

Its total declivity is 78·90 feet during extreme high water, and 82·40 during extreme low water. This declivity is based on the following elevations:—

	Above datum.
Maximum elevation of lake St. Francis, corresponding to a depth of 14½ feet above the top of the upper sill of the guard lock No. 14, at the head of the Beauharnois Canal.	185·90
Maximum elevation of the river Ottawa, corresponding to a depth of 16½ feet above the top of the lower mitre sill of lock No. 6, at the foot of the Beauharnois Canal	107·00
Declivity at highest water	<u>78·90</u>
Minimum elevation of lake St. Francis, corresponding to a depth of 10½ feet above the sill of lock 14.	181·90
Minimum elevation of the river Ottawa, corresponding to a depth of 9 feet above the top of the mitre sill of lock 6.	99·50
Declivity at lowest water	<u>82·40</u>

The greatest elevation of lake St. Louis, as before stated, was in January and February, 1873, when it rose to 110·50 feet above datum or to 20 feet above the top of the lower mitre sill of lock 6, at the lower entrance of the Beauharnois Canal.

The greatest elevation of the Ottawa at the Cascades, according to actual observation, and the information obtained in the locality, is about 1·97 feet below the top of the coping of the lower end of the entrance lock at the foot of the Cascades Canal or 107 feet above datum; this is 3½ feet less than the elevation of lake St. Louis at lock 6, and is due no doubt to the fact that the ice accumulates at the foot of the Beauharnois Canal,

much more so than at the Cascades. I have therefore assumed the elevation of 107 as the highest for the Ottawa.

A canal on this line will require 7 locks, 8 weirs, 3 culverts and 6 swing bridges, together with piers at the upper and lower entrances for the accommodation of vessels, and the necessary dwellings for the lock tenders and bridge keepers. It is proposed to construct the towing path upon the north side of the canal, double, to slope wall the inner side of the banks and cuts throughout for a height of not less than 4 nor more than 8 feet, two of which below and two above the water line, and to excavate continuous ditches outside of the canal embankments.

In order to ensure a constant supply of water for navigation and mill power if necessary, and in order also to provide against the emergency of Lake St. Francis falling to a lower level than 181.90 it is proposed to limit the surface elevation of the water in the upper reach to 181 feet; to dredge the upper entrance of the canal from McIntyre's Point westward down to a bottom level of 168.90; to reduce this elevation gradually to 168 from McIntyre's Point downwards to the guard lock; and to adopt this latter elevation for the bed of the upper reach throughout from the guard lock eastward to the next lock.

The bottom elevation of the next reach will be $11\frac{1}{2}$ feet below that of the upper reach; each of the four last reaches will have a fall of 14 feet.

DESCRIPTION OF ROUTE, &c.

The route and disposition of the various reaches, locks and other works, may be described as follows:—

THE HARBOUR OF COTEAU LANDING.

A short distance above McIntyre's Point is sheltered from the north, north-easterly and north-westerly winds; these only could affect the navigation at the upper entrance of the projected Cedars Canal or could drift into the rapids vessels proceeding eastward to or westward from its entrance.

It is capacious and offers good anchorage, the bottom consisting of clay and gravel.

UPPER ENTRANCE.

From McIntyre's Point westward, the upper entrance will have to be dredged for a distance of about 700 feet and an average depth of 7 feet; on its south side, it must be protected by a pier of the same length in order to guard vessels against the current of the steamboat channel, and to afford them the necessary accommodation whilst waiting for tug steamers or otherwise.

This pier and the shore opposite will enclose a basin of about 500 feet in length and breadth, with a depth varying from 2 to 15 feet, which can be increased to an uniform depth at any time hereafter when the requirements of trade demand it.

The approach from the lake being in the direction of the pier which should be located on a course about S. 59° W., will enable vessels to leave and enter the canal with ease and safety.

Eastward from the shore or from station 752 to station 741, the line coincides with that of the pier, for a distance downwards of 1,100 feet, and passes at from 150 to 250 feet in rear of the buildings upon the point, the depth of cutting being about $18\frac{1}{2}$ feet. Thence it follows the shore within 150 to 400 feet north of the water margin and curves in a north-easterly direction for a distance of 1,300 feet to station 728, the cutting being from 14 to 18 feet.

It afterwards continues within a short distance from the shore, until it cuts the water margin and the public road on a course N. $7\frac{1}{4}^{\circ}$ E. for 3,300 feet as far as the proposed site of the guard lock, the cutting being from 13 to 18 feet.

GUARD LOCK.

This lock, which is the seventh or last one from the cascades entrance, is intended to be located on the north side of the public road between stations 695-691, at one mile

below the upper entrance and at the same distance below the English church of Coteau Landing ; it must be provided with a swing bridge which should be placed below the lower entrance of the lock ; this can be effected by extending the lock walls downwards for that purpose. The lift of this lock will vary from 0.90 to 4.90 feet according to the elevation of lake St. Francis, from low to high water.

THE UPPER OR SUMMIT REACH

extends from the Coteau Landing road-crossing to St. Antoine road above the Cascades, or from station 691 to station 151, a distance of 10.23 miles.

The bed of this reach is supposed to be at 168 and the water surface at 181 below lock No. 7, the water surface above the lock being from .181.90 to 185.90 above the datum as already explained.

From the guard lock (No. 7) eastward, the line curves for 3,500 feet, as far as station 656 ; thence it takes a direction of N. 51° 50' E, traverses the Rivière Delisle at station 624, some 200 feet north of the junction of Beaudet's head race,—the St. Polycarpe road on the east bank of this river at station 621,—the river Rouge road at station 607,—the river Rouge at station 594,—and thence continues until it reaches station 586, a total distance of 7,000 feet.

It intersects these streams and roads at from 700 to 900 feet north of the main road.

From station 586 which is about 100 feet south, from the top of the south bank of the lower bend of river Rouge, or 650 feet north of the main road, and 750 feet from the St. Lawrence, the line curves in a more easterly direction for a distance of 3,300 feet as far as station 553, whence it runs N. 85° 20' E. to station 527, a distance of 2,600 feet.

From station 527 to station 518 ; the line curves slightly northward for 900 feet, traversing the St. Emmanuel road at station 500 at 200 feet north of the main road ; from station 518 it follows a course of N. 76½° E. to station 473, a distance of 4,500 feet ; it afterwards cuts the river à la Graisse at station 470, about 1,100 feet northward of the main road across the outlet of this stream ; thence it curves in a northerly direction along the south side of the river à la Graisse gully, as far as station 425, near the St. Dominique road, which it traverses at 3,400 feet north of the main road.

The line continues along the south side of the river à la Graisse gully, in a direction N. 78° 6' E. from station 425 to station 402 at 500 feet south from the gully ; thence it curves a little northward for 900 feet, and afterwards crosses the St. Féréol and St. Grégoire concession roads, at 7,700 feet north from the main road on the St. Lawrence, in a straight course of N. 87° 36' E. to station 230, near the head of the Chamberry gully and upon its south side ; the distance from the St. Dominique road to this point is 19,500 feet, or nearly 3¾ miles.

From station 230 to station 208 the line passes at from 200 to 500 feet south from the south side of the Chamberry gully, curving to the northward for 2,200 feet ; it afterwards traverses the St. Antoine road at station 150 on a course S. 70° 45' E. at 1,000 feet north from the main road and at 1,350 feet south from the bridge across the gully.

The upper reach of the canal is supposed to terminate at the St. Antoine road, where it is proposed to construct lock No. 6 between stations 147-151, with a swing bridge, this being the principal road between Vaudreuil and the main road leading to Cedars village.

Bearing in mind that the bottom of this reach is placed at an elevation of 168 feet over datum, the depth of cutting is from 12 to 18 feet between the guard lock and river à Delisle, from 13 to 18 between the river à Delisle and river Rouge, from 17 to 19½ between the river Rouge and the St. Emmanuel road, from 10 to 14 between this road and the river à la Graisse, from 7 to 10 feet between this stream and the St. Dominique road ; the cutting from the latter to the St. Féréol road is 11¾ feet, and from this road to the St. Antoine road it is about 8½ feet.

In order to construct the canal across the river à Delisle, it is proposed to dam this stream by means of the south embankment of the canal, and to raise the river perma-

nently to the same elevation as that of the water surface of the canal ; this surface is 9 feet above the lowest and 4 feet above the highest water of the river à Delisle at the junction of the canal and river ; when the water of the latter is raised to 181 above datum it will still be about 1.2 feet below the water surface at the head of Sullivan's falls, which are situated below the Grand Trunk railway bridge. In the south embankment of the canal and upon the west side of the stream it is also proposed to construct a regulating weir, with a sufficient number of sluices, to let off the surplus water that may accumulate in the river à Delisle during freshets or otherwise.

The damming of this river in the manner proposed will, it is believed, do little or no injury to Mr. George Beaudét's grist mill upon the main road near the bridge at its outlet.

At the river Rouge crossing it is proposed to construct a double trunk culvert of sufficient size for the escape of the back water, at about 700 feet north of the main road bridge at the outlet. The low water surface of this stream is $3\frac{1}{2}$ feet below and the high water surface 4 feet above the bed of the canal, or at an elevation of 164.50 and 172 feet respectively above the datum line ; the bed of the stream is 4 feet below its low water surface, or at an elevation of 160.50 feet.

Where the canal crosses the river à la Graisse it will be necessary to construct another culvert of sufficient capacity to drain off the water from the valley of that stream, which receives the drainage of the adjoining farms. The low water surface of the river à la Graisse is 7 feet below the bottom of the upper reach, or at an elevation of 161 feet ; the bed of the stream is 6 feet below the lowest water surface, or at an elevation of 155 above datum.

The first swing bridge on the upper reach, if located at the guard lock, will accommodate the public traffic between Coteau Landing and the Cascades ; this bridge is 7,000 feet above the St. Polycarpe road on the east side of the river à Delisle.

From the St. Polycarpe to the river Rouge road the distance is 1,400 feet ; from the latter to the St. Emmanuel road it is 8,500 feet.

For the accommodation of the traffic on these roads it is proposed to construct only one swing bridge and to place it on the river Rouge road ; this will probably suffice, because most of the traffic from the back concessions towards the St. Lawrence is in the direction of Coteau du Lac and Coteau Landing, and because a greater number of bridges would obstruct the navigation. If one bridge is found insufficient, a ferry scow might be placed on the St. Emmanuel road.

From this road to the St. Dominique road the distance is 9,700 feet ; thence to the St. Féréol road it is 11,600 feet ; thence to the St. Grégoire road it is 1,000 feet ; and thence to the St. Antoine road, at the lower end of the upper reach, it is 14,900 feet. Swing bridges will be required on each of these roads, excepting on the St. Grégoire road.

THE SECOND REACH DOWNWARDS

is between locks Nos. 6 and 5, and extends from the St. Antoine road to the main road on the banks of the St. Lawrence, opposite the old lock at Split Rock rapids, or from station 147 to station 50, a distance of 9,700 feet ; the bed of this reach is to be at 156.50, and the water surface below lock No. 6 at 169.50. The water surface above this lock is at 181 above datum, which gives a lift of $11\frac{1}{2}$ feet for lock No. 6.

After leaving the St. Antoine road the line continues on the former course of S. 70° 45' E. from station 147 to station 90, after which it curves slightly and traverses Bissonnette's gully and brook at station 82, where it will be necessary to provide a small culvert or pipe for draining this gully into that of Chambrery, which connects with it at 300 feet to the northward. The bed of Bissonnette's gully is 33 feet, and that of the brook 36 feet below the assumed bed of the canal.

From Bissonnette's gully the course is S. 80° 8' E. to lock No. 5, which is situated between stations 46 and 50, at 1,100 feet above the junction of the Quinze-Chiens road. This lock should be provided with a swing bridge for the traffic from the Quinze-Chiens road, which leads to Vaudreuil and from the Cascades to Cedars village.

The depth of cutting on this reach varies from $7\frac{1}{2}$ to 16 feet.

THE THIRD REACH, BETWEEN LOCKS NOS. 5 AND 4,

passes along the top and upon the slope of the bank of the St. Lawrence, and extends from station 46, on the main road crossing opposite Split Rock, to station 36, which is about 250 feet south of the Quinze-Chiens junction with the main road.

The distance from lock No. 5 to lock No. 4 is 1,000 feet, and the depth of cutting varies from 14 to 22 feet.

The bed of this reach is supposed to be at an elevation of 142.50, and the water surface below lock No. 5 at 155.50; the water surface above the lock being at 169.50, which gives a lift of 14 feet.

THE FOURTH REACH, BETWEEN LOCKS NOS. 4 AND 3,

curves slightly towards the north and passes across a point of the river bank down its slope for a distance of 1,400 feet from station 32 to station 18, the cutting being from 0 to 25 feet.

The elevations of this reach are 128.50 for the bed, 141.50 for the water surface below, and 155.50 for the water surface above lock No. 4, which is situated between station 36 and 32, the lift being 14 feet.

THE FIFTH REACH, BETWEEN LOCKS NOS. 3 AND 2,

follows a course of N. 61° E., from station 14 to station 8, and 600 feet in length; it passes across the point of the high bank between the St. Lawrence and the Ottawa on the west side of Cascades point, and traverses the old Cascades Canal at station 9½.

The elevations of this reach are 114.50 for the bed, 127.50 for the water surface below, and 141.50 for the water surface above lock No. 3, which is situated between station 18 and 14, the lift being 14 feet; the bed of the old canal will be about 3 feet below that of the projected canal.

The excavation on this reach consists chiefly of earth and partly of rock, the former being from 24 to 34 feet in depth and the latter from 2½ to 3½ feet in depth.

THE SIXTH AND LAST REACH DOWNWARDS, BETWEEN LOCKS NOS. 2 AND 1,

is on the same line as the preceding one, and extends from station 4 west to station 2 east, a distance of 600 feet.

It passes across the north-west portion of Cascades point, the whole of which is rock, the cutting being about 17 feet in depth.

The elevations of this reach are 100.50 for the bed, 113.50 for the water surface below, and 127.50, for the water surface above lock No. 2 which is situated between stations 8 and 4, and will have a lift of 14 feet.

CASCADES ENTRANCE.

Lock No. 1, at the foot of the projected canal, is on the same line as locks Nos. 2 and 3, and is situated between stations 2 and 6 east, or between the low water margin of the Ottawa and deep water, which is found at 400 feet from the shore.

Here the cutting is rock throughout, being from 0 to 13 feet in depth.

The elevations at this terminus are 86.50 for the bed, 99.50 for the low water surface, 107 for the high water surface of the Ottawa below the lock, and 113.50 for the canal water surface above it; this gives a lift of 14 to 6½ feet according to the height of the river.

The Cascades entrance at lock No. 1 is 1,100 feet below the mouth of the old Cascades Canal and 2,000 feet above the lower end of Cascades point.

The line of locks Nos. 3, 2 and 1 may be followed eastward into the Ottawa for nearly half a mile with a depth at low water of from 13 to 25 feet; thence the shortest line to the deep water channel of lake St. Louis runs S. 81° E. for a distance of 2 miles, and the depth is from 20 to 60 feet.

The channel on this line is several hundred feet in width and passes between five small shoals towards the north, opposite the old mill of the De Lotbinières on the lower

side of Cascades point, and another shoal towards the south on a line with the north-east shore of Cascades point and Cascades island, which are above it.

The upper shoals are about 1 mile below the entrance lock, and are about 750 to 1,000 feet north from the centre of the channel.

The lower shoal, which is at the end of the reef from Cascades island, is 2 miles below the entrance lock, and $\frac{3}{4}$ mile below Cascades island; it is about 1,400 feet south of the centre line of the channel, and it lies at $\frac{1}{3}$ of a mile to the southward of or below a point midway between Ile Perrot church and the foot of the Beauharnois Canal.

The depth of water on the upper shoals varies from $2\frac{3}{4}$ and 7 to 13 feet, and on the lower shoals from 8 feet to 13 feet. They appear to consist of rock and gravel.

Some of these shoals may serve as convenient points for the construction of piers with range lights for the guidance of vessels between lake St. Louis and the lower entrance of the projected canal at the Cascades, or through what is known as Cascades harbour or Cascades bay.

CASCADES HARBOUR OR BAY

is formed by the outlet of the most westerly branch of the Ottawa into the head of lake St. Louis, and is bounded towards the north and east by Ile Perrot, and towards the south and west by Cascades island, Cascades point and by the west shore leading to Vaudreuil.

A line drawn across its mouth between the point of Ile Perrot church and Cascades island, runs nearly N. 67, 55 E., and is about 1.8 miles in length from shore to shore.

Another line parallel to this and one mile to the north of it is about $2\frac{3}{4}$ miles in length from shore to shore.

From the line across the mouth the distance northward to the Ile Perrot shore is from 1 to $1\frac{1}{2}$ miles.

The depth of water in the harbour varies from 9 to 59 feet, for an extent of about $2\frac{1}{2}$ square miles; the area available for vessels drawing 12 feet or more of water is about $1\frac{1}{2}$ mile.

The bed of the harbour consists chiefly of clay and soft mud, except on the shoals previously described, which appear to consist of gravel and boulders upon solid rock.

This harbour is sheltered from all winds excepting those blowing from the south-eastward, and has no current worth noticing during the season of navigation.

The prevailing winds at the lower entrance of the harbour are from the east and south-east or from lake St. Louis during the spring of the year, and from the west and south-west or down the St. Lawrence during the summer season.

OPENING AND CLOSING OF NAVIGATION.

From the 11th October, 1845, the day on which the Beauharnois Canal was first opened, until the end of 1849, when the dams across the south branch of the St. Lawrence near the upper terminus of the canal were completed, and since that time, the earliest and latest dates of the opening and closing of navigation, between Lakes St. Francis and St. Louis, were as follows, viz. :—

Before the dams were built—Opening of navigation :

Earliest date.....12th April, 1848.

Latest.....5th May, 1847.

Closing of navigation :

Earliest date.....26th November, 1845.

Latest.....30th " 1848.

After the dams were built—Opening of navigation :

Earliest date.....19th April, 1859-60-71.

Latest.....3rd May, 1869.

Closing of navigation :

Earliest date.....24th November, 1853.

Latest.....13th December, 1852.

The dates of opening and closing of the Lachine, Beauharnois and Cornwall Canals, each year, are shown on one of the appended tables.

ON LAKE ST. FRANCIS,

at the head of the projected canal, the ice forms later and disappears sooner than at any other point at the foot of the lake, as I have had occasion to notice during the past twenty years.

The ice at McIntyre's Point seldom forms before the middle of December and only extends a short distance from the shore, sometimes not more than 40 feet; in the bay above it forms late in December and extends out about 300 feet from the shore; at Pease wharf it forms only after the lake is frozen across, and then very seldom more than a few feet out, and is broken up by the east winds early in March.

The Messrs. Pease, of Coteau Landing, contemplate running a small ferry boat during the coming winter from their wharf, *via* the foot of Giroux Island to the foot of Clark's Island, connecting with sleighs, thence to Valleyfield, at the head of the Beauharnois Canal.

In the spring of 1873 the ice in McIntyre's Bay disappeared on the 20th April, and at the head of the Beauharnois Canal only on the 29th, or nine days afterwards.

This year it disappeared from McIntyre's Bay early in April, and at the head of the Beauharnois Canal during the first weeks of May, after the channel ice had been cut through for part of the way.

ON LAKE ST. LOUIS AND CASCADES BAY,

the relative dates of the opening of navigation each year from 1846 to 1853, according to the data furnished by the Chateauguay Navigation Company, and the returns of the Beauharnois Canal, were as follows, viz. :—

<i>Arrival of Steamboat at Cascades.</i>	<i>Opening of Navigation at foot of Beauharnois Canal.</i>
1846 13th April	1846 16th April
1847 20th "	1847 5th May
1848 10th "	1848 12th April
1849 11th "	1849 19th "
1850 24th "	1850 26th "
1851 15th "	1851 25th "
1852 30th "	1852 2nd May
1853 23rd "	1853 29th April

Since 1853 we have no data for the Cascades, because the steamboat running thence to Lachine discontinued its trips as soon as the traffic was diverted to the Beauharnois Canal route.

Judging, however, from the foregoing dates and from the statements of the oldest inhabitants, there is little doubt that navigation is generally opened at the Cascades sooner than at the foot of the Beauharnois Canal.

In April, 1873, the Bay of Cascades was clear of ice on the 23rd, except upon the shoals before described, where it remained until the 3rd of May, exclusive; the lower outlet of the Beauharnois Canal that year was clear on the 29th April.

Last spring the greater part of Cascades Bay was covered with ice until the 7th of May; it was afterwards partly obstructed by pieces of floating ice until the 13th. Such an occurrence as this however is the first that has happened within the recollection of the oldest inhabitants.

The formation and movement of the ice in the bay are such that no danger from that source need be apprehended to any portion of the projected works, as may be seen from the present state of the masonry and lock gates at the lower entrance of the old Cascades Canal which have not suffered in the slightest degree from ice shoves, or otherwise, although they have been in existence since 1817.

Various photographs of the ice in Cascades bay and at the foot of the Beauharnois Canal were taken between 1st and 9th of May, by Mr. McLaughlin, the photographer of this department, and can be seen when required.

Col. Farijana's report on the ice at the foot of lake St. Francis, at the head of lake St. Louis and in Cascades bay, during the spring of 1873, will be found appended hereto together with his report on his survey.

THE RIVIÈRE A LA GRAISSE AND CHAMBERRY GULLIES

are considered by many as the cheapest route for a canal on the north shore.

During the month of July this year, various lines of levels were taken and other examinations were made in addition to those of the preliminary survey in order to obtain the requisite data for determining their position more accurately than had been done at first; this was indispensable inasmuch that portions of these gullies had not been surveyed, and that other portions had only been indicated on the plans furnished to me, in an approximate manner.

The line best adapted for navigation on this route is fully shown together with the others, on the plans accompanying this report—and is herein afterwards described. It is 13.95 miles in length from shore to shore, and 13.40 miles between the entrance locks.

If the canal is intended exclusively for steam tug navigation this is no doubt the cheapest and most advantageous route. If on the contrary the canal must be provided with a towing path as is usual on canals, in order that horses can be used for the towing of vessels, it will probably be advisable to adopt in preference the line avoiding the gullies.

THE LINE THROUGH THE GULLIES

follows the same course as the inland line already described from McIntyre's Point to the St. Emmanuel road; it thence runs nearly parallel to the main road until it enters the Rivière à-la-Grasse gully which it follows towards its upper end on the rear of the farm of Thomas Marcoux which is the seventh lot westward of the St. Dominique road; it afterwards follows a direct course at from 100 to 400 feet north of the other line, as far as the head of the Chamberry gully on the farm of Octave Marsan between the St. Fereol and St. Gregoire roads; thence it passes through the Chamberry gully down to its outlet on the Ottawa, the westerly bank of which it follows to the terminus of the inland line previously described, ending at 1,100 feet below the lower entrance of the old Cascades Canal, which is about half a mile below the mouth of the gully.

The number, situations and lifts of the locks required on the gully line, and the cutting throughout, may be described as follows, viz. :—

LOCKS.

From Station.	To Station.	Number.	Lift in Feet.	Remarks.
691	695	Lock 7	0.90	At low water of Lake St. Francis on main road at mile below English Church of Coteau Landing.
271	267	" 6	11.50	Near St. Gregoire road.
163	159	" 5	14.00	Near St. Antoine road.
104	100	" 4	14.00	
77	73	" 3	14.00	
40	36	" 2	14.00	On Quinze-Chiens road.
2	6	" 1	14.00	At low water of Ottawa near margin of river, 1,100 feet below old Cascades Canal.

Total rise and fall 82.40 at extreme low water.

CUTTING.

Sections.	From Station.	To Station.	Distance in Feet.	Depth of Cutting in Feet.
Dredging channel 100 ft. wide x 46 ft. for pier.....	774	767	700	0 to 13 earth.
McIntyre's Point to St. Emmanuel road.....	767	538	22,900	19 to 14 "
Between McIntyre's Point and Rivière à Delisle.....	691	699	4,200	2 to 7 rock.
St. Emmanuel road to Rivière à la Graisse.....	538	486	5,200	14 to 10 earth.
In Rivière à la Graisse Gully to St. Dominique road, 0' to 11' below canal bottom.....	486	438	4,800	
St. Dominique road to St. Fereol road.....	438	322	11,600	0 to 12
St. Fereol road to St. Gregoire road.....	322	278	4,400	12 to 8
St. Gregoire road to Lock No. 6 or to the head of Chamberry Gully.....	278	271	700	0 to 10
Lock No. 6 to Lock No. 5, near St. Antoine road.....	271	245	2,600	0 to 13
do do 0' to 14' below canal bottom.....	245	163	8,200	
Lock No. 5 to Lock No. 4, at various points.....	163	104	5,900	5 to 22
do do elsewhere 4' to 15' below bottom.....				
Lock No. 4 to Lock No. 3, at various points.....	104	77	2,700	7 to 37
do do elsewhere 4' to 8' below bottom.....				
Lock No. 3 to Lock No. 2 near Quinze-Chiens road at various points.....	77	40	3,700	3 to 35
do do elsewhere 0' to 12' below bottom.....				
Lock No. 2 to Lock No. 1, at various points.....	40	2	4,200	0 to 20
do do two points of rock.....			400	2 to 8 rock.
Lock No. 1 and outlet on the Ottawa.....	2	7	500	0 to 11

THE RIVER ROUTE OR LINE NO. 3,

as shown on the general map and profile, begins on lake St. Francis at the same point as the inland route, and terminates at a point nearly half a mile below the outlet of Chamberry gully, and opposite the former steamboat landing at the Cascades, on the Ottawa.

It comprises three sections of canal and two of river navigation, of an aggregate length of 13.83 miles from shore to shore, or of 14.59 miles including the dredging at both termini. Its total declivity is 78.90 feet during the extreme high water, and 82.40 during extreme low water. This declivity Col. Farjana proposed to overcome by means of eight locks, excepting 0.55 feet in the river between the Fer-à-Cheval and Pointe-au-Diable, and 2.14 feet between the latter and Pointe-à-Biron; another lock, however, will be required at Pointe-à-Watier, at about half way between the two last points, for the reason hereinafter given.

The entire length of canal navigation would be 10.03 miles, and that of river navigation 4.56.

The various sections may be described as follows, viz. :—

SECTION NO. 1.

A canal, 2.97 miles in length, begins at Macdonald's or McIntyre's Point, at the foot of lake St. Francis, a short distance below the village of Coteau Landing, and extends downwards along the north shore of the St. Lawrence to a point between the Fer-à-Cheval and the mouth of Rivière Rouge, below the village of St. Ignace.

The depth of water in the north steamboat channel from a point at about 1,000 feet southward of the new pier built lately by the government opposite to Coteau Landing to the head of McIntyre's island, varies from 15 to 30 feet; thence downwards to Coteau du Lac the depth is from 10 to 20 feet.

The mean velocity of the current in miles per hour between Coteau Landing and Coteau du Lac varies at the following rate :—

In northern steamboat channel, opposite to Pease wharf, Coteau Landing 1.25

In northern steamboat channel, below shoal.....	1.41
“ “ opposite upper end of McIntyre's island.....	2.46
300 feet above McIntyre's Point (current running southward around point).....	3.55
In north steamboat channel below upper end of Giroux is- land.....	6.83 to 6.37
Opposite Moise Giroux' residence.....	2.58
“ Alexander Perry's residence.....	3.64
At about 600 feet above French's Rapid and 250 feet off shore..	2.83
In deep water below Pointe Fer-à-Cheval, opposite mouth of Rivière Rouge.....	1.97

The low water elevation of the St. Lawrence above datum on this section is 181.90 feet at the upper and 164.50 at the lower end; the difference represents a declivity of 17.40 feet, to overcome which two locks (Nos. 8 and 7) are required.

Lock No. 8 is a guard lock, with a lift varying from 0.90 at the lowest to 4.90 at the highest level of lake St. Francis, the lowest level being 181.90 and the highest 185.90 feet above the general datum line to which all levels herein are referred. This lock should be located, together with a swing bridge, at the junction of the post road, one mile below the upper entrance.

Lock No. 7 has a lift varying from 16½ at the lowest to 12½ at the highest elevation of the St. Lawrence; it may be placed immediately below the point on the east side of the Fer a Cheval Basin.

Assuming the elevation of the bottom of the canal above datum to be 168 feet, in the upper reach between locks No. 8 and 7, and 151.50 feet at the entrance of lock No. 7, the cutting will be nearly as follows, viz. :—

From McIntyre's Point westward, the upper entrance will have to be dredged for a distance of 700 feet and an average depth of 7 feet, and it must be protected on the south side of the channel by a pier of about 700 feet in length, in order to guard vessels against the current of the steamboat channel.

Eastward across the point for 1,500 feet, the depth of cutting varies from 19 to 22 feet; continuing downwards for the next 2 miles, it is generally 17 feet, on the remainder of the line which runs across the old fort or Government property, the mouth of the Riviere-a-Delisle and the Fer-a-Cheval, the cutting is very irregular, being from 2 to 10 feet in the river and about 21 feet through the projecting points of the shore.

Most of the excavation on the first section will be through earth, but from the Fer-à-Cheval westward for more than 1½ miles, part of it will be through rock varying in thickness from 2 to 10 feet.

On that portion of the line which traverses the mouth of the Riviere-à-Delisle, a dam and weir will be required if this stream is raised to the same height as the canal water surface, in which case Mr. Beaudet's mill privilege would be cancelled or the canal may be constructed with a raceway between it and the shore, for the egress of the stream into the St. Lawrence at the Fer à Cheval.

SECTION NO. 2.

The first link of river navigation extends from the Fer-à-Cheval to Pointe-au-Diable, a distance of one mile; it crosses the bend of the steamboat channel nearly midway at 1,000 feet from the shore.

The depth of water along the line varies from 12 feet near the shore at the Fer à Cheval, to 18 and 30 feet downward. In the north steamboat channel the depth varies from 9½ feet across the points of 4 shoals to 15 and 27 feet.

The declivity of the river surface during low water is 0.55, the elevation at the upper and lower end being respectively 164.50 and 163.95.

The mean velocity of the current on this section varies from 1.27 to 1.97 miles per hour.

SECTION NO. 3.

A canal 1,600 feet long across Pointe-au-Diable with one lock (No. 6) of 2·21 feet lift.

The depth of cutting is from 14 to 24 feet, exclusive of the rock which, for a distance of 1,000 feet, is from 2 to 10 feet in thickness.

At 1,000 feet out from the shore, the steamboat channel is from 10·9 to 16 feet in depth.

The declivity is between the elevation of 163·95 and 161·74, being 2·21 feet as above, during low water, from the upper to the lower side of the point.

The current around the point has a mean velocity varying from 5·73 to 4·25 miles per hour.

SECTION NO. 4.

A second and last link of river navigation, 3·56 miles in length, commences at Pointe-a-Diable, and ends at Pointe-à-Biron.

This portion of the line intersects the steamboat channel at a point 1,600 feet below Pointe-au-Diable and also at another point 1 mile above Pointe-à Biron ; the intermediate portion is from 200 to 600 feet south of the channel.

The depth of water along the line is generally from 14 to 20 feet, and in the channel from 11 to 30, except on four small shoals where it is only from $9\frac{3}{4}$ to $11\frac{3}{4}$ feet.

The declivity of the low water surface is 2·14 feet, the elevations of the terminal points being 161·74 and 159·60.

The current on this portion of the river runs with a mean velocity of 3·12 to 3·89 miles an hour, except at Pointe-à-Watier, which is situated about midway, where it increases to 4·53 in the steamboat channel and to 5·84 in the rapid, the maximum for a short distance being 6·05 miles per hour.

On this section a lock and short canal would be required across the Pointe-à-Watier, nearly similar to that across Pointe-au-Diable, otherwise sailing vessels cannot ascend, and steam vessels would have a powerful current to contend against in ascending. Col. Farijana, in his plan and estimate, has made no provision for any lock or canal at this place.

SECTION NO. 5.

A canal, 6·76 miles in length, extends from Pointe-à-Biron, through Roussin's Ravine and Chamberry gully, to a point on the river Ottawa, opposite to the mouth of the Cascades canal, 2,700 feet below the outlet of the gully.

This section intersects the St. Fereol road at about half a mile north from the junction of the latter and of the post road near the St. Lawrence, and connects with the Chamberry gully at about two-thirds of a mile below the most easterly end of the St. Grégoire cross-road, and at two and a-half miles, in a north-easterly direction, from the terminus of the St. Lawrence ; it afterwards follows the gully, in a south-easterly course, down to its mouth, whence it continues until it reaches deep water, on a line bearing upon the steeple of Ile Perrot church, in an easterly direction.

The depth of cutting is from 20 to 24 feet on the first half mile ; 14 to 16 on the second half mile ; 27 to 34 on the next $1\frac{1}{2}$ mile ; thence 0 to 23 feet on the subsequent 1·37 mile, as far as the St. Antoine road ; thence from 5 to 34 feet across various points in the gully down to the Quinze-Chiens road, a distance of 2·24 miles ; thence from 4 to 14 feet to the outlet, where the dredging would begin at 0·13 mile further ; the dredging thence to deep water or to a depth of 13 feet at extreme low water extends 0·51 miles and varies from 0 to 11 feet in thickness. The only rock excavation on this section will be towards the lower end at the entrance lock No. 1.

The declivity between the lowest water of the St. Lawrence, at the Pointe-à-Biron, and the lowest water of the Ottawa, at the outlet of Chamberry gully, is 60·10 feet, their respective elevations above datum being 159·60 and 99·50 feet ; the declivity during high water is reduced to 56·60 or $3\frac{1}{2}$ feet less, the elevations then being 163·60

and 107; the maximum rise thus indicated is 4 feet in the St. Lawrence and $7\frac{1}{2}$ feet in the Ottawa, above their lowest levels.

This section requires five locks, one of which a guard lock at the junction of the post road opposite Pointe-à-Biron, with a lift varying from 0 to 4 feet, according to the height of the St. Lawrence; the other locks will have lifts of from 14.75 to 15.25 feet, and are upon the first mile at the lower end of the line, three being above and one below the Quinze-Chiens road. The lift of the entrance lock on the Ottawa will vary from 15.25 during extreme low water to 7.75 during extreme high water, the minimum and maximum ascertained elevations of the river being 107 and 99.50 feet above datum.

The bottom of the upper reach of the canal, from pointe à Biron downwards, is supposed to have an inclination of eight-tenths of a foot, so as to facilitate the water supply.

The north side of the channel to be dredged from the outlet of the gully to deep water will have to be protected by means of an embankment, faced with stone or otherwise on the inner and outer sides, for nearly half a mile in extent.

Three swing bridges will be required on this section, the first across the end of the guard lock, the second across the St. Féréol road, and the third where the line intersects the St. Antoine road. At the intersection of the Quinze Chiens road it is probable that a ferry scow will be found sufficient for the limited traffic on that road.

According to an estimate prepared by Col. Farijana, the river line would cost \$154,000 less than an inland line terminating at the same points on lake St. Francis and the Ottawa; but as I have already stated, he has made no provision for any improvement at Watier's Point, which would more than absorb the difference in favour of the river line.

Admitting, however, that the river line is improved in the manner requisite to ensure its efficiency, and that its cost will be equal, or nearly so, to that of the inland line, the latter would be far more advantageous owing to the greater facilities for towing by horse or steam power and the greater security of vessels navigating a continuous canal, instead of a series of canals, separated from each other by sections of river navigation, whereon strong currents must necessarily be encountered and where collisions might occur with rafts obstructing the channel.

The additional lock and canal at pointe à Watier would, of course, render this line of navigation practicable, but vessels would then have two locks more to pass through than upon the inland route.

In the spring of the year the lower terminus of the river line being two-thirds of a mile further up the Ottawa than that of the inland line, the ice between the long embankment and the shore, below the entrance lock, would not break up so soon as at the terminus of the latter, where no embankment is required.

Apart from the latter objection, there is another, as regards the nature of the material to be dredged at the Chamberry outlet, because it is very soft. After the channel is dredged it is very probable that part of the river bed between the artificial channel and the shore would have a tendency from year to year to slide into the channel, in which case a dredge would be required to remove the obstruction. This difficulty may be avoided by constructing an embankment on the south side of the channel, but this would involve considerable additional expense.

MR. MILLS' SCHEMES.

In 1884 Mr. J. B. Mills submitted to the Government of Lower Canada three different schemes for canal navigation on the north shore of the river St. Lawrence, based on the dimensions adopted for the Cornwall Canal, viz., 100 feet wide at bottom and locks 200 by 55 feet, with 9 feet water over the sills.

By his first plan he proposed to make use of $7\frac{3}{4}$ miles of the river St. Lawrence in its natural state, between the Cascades, Cedars and Coteau rapids, and to overcome these by constructing three short canals of an entire length of $6\frac{7}{8}$ miles. On this improved navigable route of $14\frac{5}{8}$ miles in length the whole descent would have been $82\frac{1}{2}$ feet, of which $9\frac{1}{2}$ feet formed the natural fall of the portions of river made use of,

between the short canals, leaving 73 feet to be overcome by 9 locks of various lifts. Total estimated cost of this project No. 1, \$943,128.

Mr. Mills' second plan was to establish a continuous still-water communication between the lakes St. Francis and St. Louis by making a canal in a direction similar to the first but more inland. The descent was the same as the first, viz., 82½ feet, but requiring 10 locks. Total estimated cost of project No. 2, \$1,299,772.

By his third plan he proposed a communication from lake St. Francis to the lake of the Two Mountains on the Ottawa river, 13½ miles long—descending 78½ feet and requiring 10 locks. Thence he passes through the lake of the Two Mountains, and, with the aid of an additional lock and a short cut, reaches the navigable waters of lake St. Louis at the end of 3½ miles—this going over a total distance of 17¾ miles by this route, of which 14·10 miles be canal, with 11 locks. Estimated cost of project No. 3, \$1,771,048.

After having visited the south side of the river St. Lawrence and having passed over the country from lake St. Francis to Beauharnois, on lake St. Louis, Mr. Mills stated, that geographically considered, a line on the north side of the river would appear to him to be the most direct between these two waters—and recommended for adoption the first of the above described plans, using the river with short canals round the rapids.

This project was afterwards submitted to the Hon. H. H. Killaly, chairman of the Board of Works, who condemned it, because Mr. Mills' scheme was only adapted to steamers, and on account of the great difficulties attending the construction of works of such a nature in the St. Lawrence—the estimates of which generally fall short of the real cost, owing to many causes of expenditure which can scarcely be foreseen.

In his testimony given before a special committee appointed by the House of Assembly in 1842, he states that:—

“The difficulties we have encountered in constructing the works of Ste. Anne's lock (nearly in the same neighbourhood) will make me ever cautious to avoid, when it can be done, undertaking works of masonry, subject during their construction to the influence of the St. Lawrence or Ottawa rivers.”

The various estimates of the river line recommended by Mr. Mills are as follows, viz. :—

J. B. Mills' estimate.....	\$ 943,128
Hon. H. Killaly's estimate.....	1,319,352
Col. Phillpott's do	1,821,593

A synopsis of the most important reports and estimates submitted to Government in connection with the Cedars Canal, before the construction of the Beauharnois Canal, will be found in the report of the Hon. J. Chs. Chapais, commissioner of public works, for the year ending 30th June, 1867, and containing the history of all the public works of Canada up to the time of confederation.

The approximate quantities, description and cost of the various works required on the lines examined during the recent survey, and hereinbefore described, are shown in the general and detailed estimates which follow in the appendix of this report.

In conclusion, I beg to acknowledge the valuable services rendered during the survey by Mr. R. Steckel, and also the useful assistance of Messrs. Rosa, Boulet and Taché, of this department.

I have the honour to be, sir, your obedient servant,

G. F. BAILLAIRGÉ,
Assistant Chief Engineer Public Works.

ESTIMATES.

CEDARS CANAL, River line, 12 feet navigation.—Canal navigation, 10·03 miles ; River navigation, 4·56 miles.

Description of Work.	Quantity.	Price.		Amount.	
		\$	cts.	\$	cts.
Earth excavation	cub. yds. 1,757,500	0	27	474,525	20
Embankment	do 300,000	0	40	120,000	00
Dredging	do 183,000	0	40	73,200	00
Rock excavation	do 143,000	2	00	286,000	00
Raceway, mouth of Delisle river				10,000	00
Locks 1 to 7, inclusive of weirs and raceways	No. 7			1,500,000	00
Swing bridges, locks at head and at pointe à Biron	2	3,000	00	6,000	00
Swing bridge, St. Antoine road—piers and abutments	1	20,000	00	20,000	00
Crib-work along St. Lawrence, at entrances	cub. yds. 60,000	2	25	135,000	00
Ditching	do 36,000	0	30	10,800	00
Slope walling	do 36,000	1	80	64,800	00
Rip-rap	do 20,000	0	60	12,000	00
Lockmasters' houses	No. 9	2,000	00	18,000	00
Lock labourers' do	do 9	1,700	00	15,300	00
Bridge-keeper's do	do 1	1,300	00	1,300	00
Land	sup. arp. 700	80	00	56,000	00
Fencing	lin. arp. 560	12	00	6,720	00
Pumping (included in locks, weirs, &c).					
Total				2,809,645	20
Add for sup. and contingencies				280,355	00
Total cost of river line, 12 feet navigation				3,090,000	20

ESTIMATES.

CEDARS CANAL, Gully line—For steam tug navigation. Length from shore to shore, 13·95; length between entrance locks, 13·40. No towing path; 12 feet navigation.

Description of Work.	Quantity.	Price.		Amount.	
		\$	cts.	\$	cts.
Earth excavation.....cub. yds.	2,911,000	0	27	785,970	00
Embankment (river Ottawa).....do	242,000	0	40	96,800	00
Dredging.....do	85,000	0	40	34,000	00
Rock excavation.....do	42,600	2	00	85,200	00
do under water.....do	1,300	4	00	5,200	00
Lock No. 1 at Cascades entrance—weirs and raceways included.....				251,360	00
do No. 2 at Quinze-Chiens road.....				166,760	00
do No. 3.....				168,600	00
do No. 4.....				170,600	00
do No. 5, near St. Antoine road.....				168,040	00
do No. 6, near St. Grégoire road.....				155,360	00
do No. 7, at lake St. Francis terminus.....				160,710	00
Swing bridges across locks No. 2, 5, 6 and 7.....	4	3,000	00	12,000	00
do do St. Féréol, St. Dominique and St. Emmanuel Roads.....	3	20,000	00	60,000	00
Culverts, river Rouge—river à la Graisse.....	2	20,000	00	40,000	00
Weir and race, river Delisle.....	1	31,000	00	31,000	00
Ditching on both sides of canal.....cub. yds.	44,500	0	30	13,350	00
Piers at upper and lower entrance.....do	24,000	2	25	54,000	00
Slope walling.....do	63,200	1	80	113,760	00
Rip-rap.....do	10,000	0	60	6,000	00
Lockmasters' houses.....No.	7			14,000	00
Lock labourers' houses.....do	7			12,000	00
Bridge-keepers' houses.....do	3			4,000	00
Land.....sup. arpents, say	1,400	80	00	112,000	00
Fencing.....lin. arpents	800	12	00	9,600	00
Pumping, included in locks, weirs, &c.					
Total.....				2,730,310	00
Add for contingencies.....				273,690	00
Total.....				3,004,000	00

ESTIMATES—Continued.

CEDARS CANAL, Inland Line.—Length, shore to shore, 14.20; do. between entrance walls, 13.12.—(12 feet navigation.)

Description of Work.	Quantity.	Price.		Amount.	
		\$	cts.	\$	cts.
Earth excavation	cub. yds.	4,134,000	0 27	1,116,180	00
Rock do	do	75,000	2 00	150,000	00
Dredging	do	34,200	0 40	13,680	00
Locks, Weirs and Raceways adjoining, including excavation.	Lock 1.—\$ 251,400				
	do 2.—239,700				
	do 3.—209,800				
	do 4.—181,000				
	do 5.—176,000				
	do 6.—156,600				
	do 7.—160,700				
Swing bridges over locks 5, 6, 7. Wooden supports only	3	3,000	00	9,000	00
do St. Féréol, St. Dominique and St. Emmanuel roads	3	20,000	00	60,000	00
Culverts.—R. Rouge and R. à la Graisse	2	20,000	00	40,000	00
Weir and Race.—R. Delisle	1	31,000	00	31,000	00
Ditching on both sides of canal	cub. yds.	47,500	0 30	14,250	00
Piers at upper and lower entrance	do	24,000	2 25	54,000	00
Slope walling on both sides of canal	63,200	1 80		113,760	00
Lockmasters' houses, bridgekeepers', &c.				30,000	00
Land	sup. arpents.	900	80 00	72,000	00
Fencing	lin. do	800	12 00	9,600	00
Pumping (\$40,000, included in locks, weirs, &c.)					
Total				3,088,670	00
Add for contingencies				271,330	00
Total				3,360,000	00

REPORT of the survey and location for a canal on the north shore of the river St. Lawrence between the lakes St. Francis and St. Louis, by Colonel F. C. Farjana, Civil Engineer.

OTTAWA, 12th April, 1873.

To G. F. BAILLAIRGÉ, Esq., Asst. Chief Engineer, Public Works, Canada.

SIR,—Receiving your verbal instructions on the 4th November last, directing me to make the survey and locate the most practicable line for a canal on the north shore of the river St. Lawrence, between the lakes St. Louis and St. Francis, I without delay commenced field operations on the 6th of said November with the party of engineers put under my charge.

In the interval I examined various reports of previous surveys by Mr. G. Mills, B. Wright, Sam Keefer and other civil engineers, for the above mentioned canal and after comparing those surveys with the actual character of the locality, I came to the conclusion that a line by the Chamberry gully, as you suggested, would be more advantageous than any of those recommended by the above gentlemen.

Before stating the advantages by accepting Chamberry gully as a line for a canal it would be proper to give some sketch and character of it, so as to render it possible to draw some idea which may justify the reason why the gully has been adopted as the base of operation.

CHAMBERRY GULLY.

At a distance of $8\frac{1}{2}$ miles from lake St. Francis in the direction of lake St. Louis on the north shore of the St. Lawrence, a low ground commences, gradually descending

south easterly, for a half mile, then taking the course more easterly, forms quite a deep and broad ravine or gully traversed by a small stream, called Quinze-chiens or Chamberry River, formed partly from drainage of the northern country and partially from small springs, and runs for four miles or over and falls into Ottawa river at a distance of half a mile from old Cascades Canal.

The width of the gully is from 100 to 400 feet in the bottom, descending gradually, as I said, the banks maintaining the same level on each side, and which are at the mouth over 60 feet above the bottom of the gully.

No other ravine of any consequence enters the Chamberry gully, except Bissonnette's gully on the south, near the mouth, and which cannot make any obstacle, but on the contrary may be used for a large reservoir. The Chamberry gully only drains part of the country as, on the south bank, the ground declines towards the St. Lawrence, except about half a mile from the mouth. On the north side the gully drains the land lying near its source, but lower down the land descends towards the Ottawa River.

From this sketch the advantage of accepting Chamberry gully may be easily seen; first, materially by saving more than half a million of cubic yards of excavation, then the facility of distributing the locks at such intervals as to leave a sufficient reservoir of water between each of them.

In the report of Mr. Samuel Keefer, civil engineer, I noticed that he made objection to accept the above mentioned gully saying that "not only the works would be placed in jeopardy by the land floods but the rubbish and deposits brought down with those floods would be a constant source of annoyance by settling in about the lock gates and deranging their working." After a careful examination and specially when my survey was completed I found the above mentioned objections were groundless.

Accordingly, accepting the Chamberry gully as the base of operation, various lines have been examined instrumentally and two of them are located and recommended as for the line of a canal; but I must add, that, having time, the lines recommended by the previous surveys were examined also and because of their engineering impracticability and greater expense were abandoned.

During the location of the two above recommended lines, borings were made at intervals from 100 to 500 feet, and by that the character of the soil approximately obtained.

The soundings were taken on lakes St. Francis and St. Louis from both ends of the canal line to the natural channel of those waters as well as in the river St. Lawrence between river Deslisle and Pointe a Biron, so that the character of obstructions was quite closely ascertained.

With the following report, I respectfully submit to you:—

One general map and profile drawn on the scale of 1,600 feet horizontal and 40 feet vertical to an inch, showing the locality between lakes St. Francis and St. Louis and the lines located.

Four sectional maps and profiles drawn on the scale of 400 feet horizontal and 20 feet vertical to an inch, also approximate estimates according to the required dimensions of the canal (100 feet in the bottom, slope 2 to 1 in the earth, and $\frac{1}{4}$ to 1 in the rock, 12 feet draught of water so as to carry 1,000 tons burden, lock 270'x45') with full statements of quantity and quality of work.

Of the two recommended lines, the first comprises the distance $13\frac{1}{2}$ miles from lake to lake and is entirely inland; the second, 14 miles long, comprises about 5 miles of the navigable water of the St. Lawrence.

Each of the lines might be shortened by a mile or a little more by putting a dam across one of the channels of the river St. Lawrence between French Island and the north shore just a little above French's reef so as to raise the water of this river to or near the level of lake St. Francis (about two feet).

But I decline to recommend such a project as it is quite impracticable, on the ground that, during the spring, this artificial bay would accumulate ice and retard navigation, as occurs on the Beauharnois Canal where, I have been informed, nearly every spring, the entrance of that canal is jammed by the ice, the removal of which requires great labour and time so as to avoid the above difficulty. The present line begins as follows:

Inland line, section No. 1.

Commences at McDonald's Point, or the foot of lake St. Francis, where about 400 feet in length of dredging is required (which consists mostly of alluvial deposits) to the natural channel of the above mentioned lake, then follows the shore of the St. Lawrence, for 4,000 feet, and touches the bay of said river opposite French's Island, where, by the present line, cribwork for 1,400 feet is required, but this work may be avoided by turning the line to the left, at 200 feet apart from the present location. Besides the avoiding of cribwork, 58,000 cubic yards of rock excavation might be avoided, but in that case, the farms, dwellings, etc., would have to be bought.

From this point, the line takes a north-easterly course and runs inland at various distances from the St. Lawrence, where it crosses the summit level, which is 11 feet above the level of lake St. Francis, at $2\frac{1}{2}$ miles distance from the entrance of the canal line.

RIVER DELISLE

crosses, which takes its source in Glengarry county from the marshy ground and runs south-easterly for 30 miles, descending $\frac{1}{2}$ foot per mile, then taking the course more southerly, passes the rock bar, where it makes a fall of 8 feet, known as Sullivan's Falls, then running south into the river St. Lawrence.

INLAND LINE.

In former years, river Delisle, as I have been informed by persons residing in the neighbourhood, during the spring freshets, rose to 10 feet above ordinary water level, but at the present time, or for six or eight years past, it has been observed that this river does not rise more than 3 or 4 feet. This is quite natural, as the woods have been diminished and the lands converted to agricultural purposes where river Delisle takes its source, so that the ice and snow accumulate less during the winter season and reduce the spring freshets in that river.

According to instrumental examination, river Delisle is near the same level as lake St. Francis, so the line crossing the river Delisle, which is half a mile below the falls and the same distance from the river St. Lawrence, requires a dam with waste weir 175 feet in length.

From river Delisle, the line takes an easterly course, and at a distance a little more than 3 miles from lake St. Francis, crosses.

RIVER ROUGE.

This river takes its source from the swampy ground 4 miles distant north from river St. Lawrence surrounded on both sides by high ground and serves as a drainage for the surrounding country. From the information I obtained with regard to spring freshets, I found that river Rouge rises to 10 feet above ordinary water level; accordingly the question will be to cross this river by an aqueduct or construct a dam as on river Delisle.

Ordinary water level at river Rouge is $3\frac{1}{2}$ feet below the bottom of the canal. The present estimate on the assumption that the canal crosses by culvert, which is more expensive than constructing a dam and very likely there will be more advantage by adopting the latter which may serve for a distance of 3 miles of navigable water, then water power may be used for manufacturing purposes, but as the river Rouge has not been closely examined up to its source, this question may be the subject of future consideration.

The above mentioned line from lake St. Francis to the crossing of river Rouge represents the first section of the map comprising the distance of 170 stations or $3\frac{1}{4}$ miles, the highest cut of this section is about 24 feet, but on an average about sixteen feet. The soil is clay, and in some places slices of sand.

The rock which is represented on the profile gives an average of 4 feet cutting for more than a mile, but, as I said, before a large part of this may be avoided.

Approximate Estimate of the quantity and quality of work of section No. 1.

Excavation under water at McDonald's Point, 44,777 cubic yards.
 Bulwark at the entrance of the canal, 9,480 cubic yards.
 Earth excavation, 1,335,877 cubic yards.
 Rock excavation, 83,973 cubic yards.
 Embankment from excavation, 6,307 cubic yards.
 Crib-work alongside of St. Lawrence, 1,400 feet.
 One guard lock and weir.
 Dam across river Delisle, 175 x 22 x 20, with waste weir.
 One 12 foot culvert across river Rouge, 240 feet long.
 Three swing bridges (wooden abutment and piers).
 Three bridge houses.
 One lock-keeper's house.
 One toll-keeper's house.
 Roadway for 140 acres.
 Fencing on both sides, 70 acres (220 feet in length at each side).
 Clearing and grubbing, 5 acres.
 Ditching, 46,930 cubic yards.
 Pumping at guard lock.
 Protection wall on both sides of canal, 10,666 yards in length.

SECTION NO. 2,

beginning at station 550 or close to the crossing of river Rouge, takes an easterly course, comprising a distance of $3\frac{1}{4}$ miles and passes over river à-la-Graisse, which is merely a small stream formed from the drainage of the parish of Cedars, on the north side of the canal line, according to statements of "habitants." This river never rises more than 3 or 4 feet during the spring.

Being 7 feet below the bottom of the canal, it requires an aqueduct, which might be constructed without any difficulty.

Height of the ground in this section declines to the east; average cut for the canal about 16 feet; character of the soil, ordinary alumina or clay; no rock has been found at the depth of 25 feet; this section running station 550 to station 380.

Approximate Estimates of the quantity and quality of work on Section No. 2.

Earth excavation, 1,142,563 cubic yards.
 Embankment from excavation, 94,156 cubic yards.
 12 foot culvert across rive à-la-Graisse, 240 feet long.
 Two swing bridges (wooden abutment and piers).
 Two bridge houses.
 Roadway, 140 acres.
 Fencing on both sides, 70 acres (220 ft. in length at each side).
 Ditching, 30,222 cubic yards.
 Protection wall on both sides of canal 11,000 yards.

SECTION NO. 3.

From Station 380 to Station 190.

Line crosses St. Férol road at a mile and a-half distance from river St. Lawrence. With the level of 12 feet, character of the soil is clay; $\frac{3}{4}$ of a mile from the end of this section, line descends into Chamberry gully, where the lockage commences; at station 244-50 is the first lock with 11 feet lift; then at an interval of 700 feet is the second lock, with the same lift as the former, assuming the elevation of 22-10 feet below the extreme low water of lake St. Francis. The cut in the gully for $\frac{3}{4}$ of a mile is on an average about 14 feet, so the drainage of the northern country would not interfere with the lockage; the bank on both sides of the gully is about 20 feet above the canal surface.

Approximate Estimates of the quantity and quality of work in Section No. 3.

Earth excavation, 1,173,260 cubic yards.
 Embankment from excavation, 77,121 cubic yards.
 One swing bridge (wooden abutment and piers).
 One bridge house.
 Two locks, 11 feet lift each, and two weirs.
 Two lock-houses.
 Damage for roadway, 148 acres.
 Clearing and grubbing, 25 acres.
 Fencing on both sides, 70 acres (220 feet in length at each side).

Inland Line.

Ditching, 26,666 cubic yards.
 Protection wall on both sides of canal, 12,666 yards.

SECTION NO. 4.

From Station 190 to 0.—Then 26 Stations by the River Ottawa.

This section is entirely enclosed in Chamberry gully for 190 stations, except one mile above the mouth of Chamberry gully the line passes over the point which is adopted for placing third and fourth locks with an interval of 800 feet between them; very small cutting required at this section, merely some points which might be by more careful location avoided. The gully at the bottom has been found no less than 100 feet wide; the height of the land on both sides is over 65 feet; the depth of the water at the beginning of third lock is about 30 feet.

The fifth lock is placed at the interval of 1,500 feet, holding a large reservoir of the water (see map, section No. 4). At a distance of 1,000 feet is placed the sixth lock, on the point of Quinze-Chiens road.

Each of the last four locks is 13 feet lift; from the sixth, at a distance of 400 feet, or at the end of the gully, the line passes on the west side of the Ottawa River for 23 stations, where seventh lock is placed, 7.5 feet lift, nearly opposite the old Cascades Canal; the lock is placed as above for the present, in consequence of statements in previous surveys and reports that the ice on the Ottawa River above the Cascades point remains 10 days and sometimes a fortnight longer than in the St. Lawrence, so that the navigation is delayed for the above-mentioned time. If that statement is true, the last lock ought to be placed at the present place, and in such a case crib-work is required for 26 stations in length on the east side of the canal line, as also 6 stations from the lock to the shore.

This section, besides earth excavation (as no rock has been found at the bottom of the canal), requires some dredging on Ottawa River, which consist of alluvial deposits.

An embankment of 200 feet in length by 37 feet high is required, so as to shut up the gully 1,000 feet on the left from the third lock. (See map No. 4.)

Approximate Estimates of the quantity and quality of work in Section No. 4.

Earth excavation under water, 13,854 cubic yards.
 Earth excavation, 615,238 cubic yards.
 Embankment from excavation, 70,000 cubic yards.
 Crib-work for 2,600 feet.
 Crib-work from shore to lock No. 7, 600 feet.
 Four locks, 13 feet lift each, and four weirs.
 One lock, 7.5 lift, and weirs. Five lock-houses.
 One toll-keeper's house.
 Two swing bridges.
 Two bridge houses.
 Piers, 7,407 cubic yards.
 Pumping for 7th lock.
 Damage for roadway, 240 acres.
 Protection wall on both sides of canal, 1,333 yards.

REMARKS.

The present estimate of the above inland line did not comprise the tow-path. According to calculations, it requires 304,175 cubic yards of embankment.

The second line which has been located and might be recommended is the

RIVER LINE

having 9 miles of artificial navigation and near 5 miles by river St. Lawrence; this line, as the former, is divided in four sections, according to distance.

Description of this line is as follows:—

SECTION NO. 1

begins at the same point as inland line, and follows for a mile; then, from station 666, runs alongside of the river St. Lawrence, crosses the mouth of the river Delisle at $2\frac{1}{4}$ miles distance from lake St. Francis; then passing point Fer à Cheval comes to the navigable water of the St. Lawrence, which is 17 feet below the level of the lake St. Francis—distance in all, $2\frac{3}{4}$ miles.

On this section, beyond the ordinary earth excavation, has been found rock for 7,000 feet, with a cut of 4 feet on an average; crib-work alongside the St. Lawrence for 28 stations.

To pass river Delisle it will require a stone wall for 150 feet in length by 20 feet, and to change the course of river Delisle, making an extra cut for a thousand feet or a little more.

Approximate Estimates of the quantity and quality of work in Section No. 1.

Earth excavation under water, 89,673 cubic yards.

Bulwark at the entrance of the canal, 9,480 cubic yards.

Earth excavation, 716,611 cubic yards.

Rock excavation, 110,696 cubic yards.

Embankment from excavation, 51,643 cubic yards.

Crib-work alongside of St. Lawrence, 2,800 ft. x 16 ft. x 20 ft.

Stone wall at river Delisle, 150 ft. x 10 ft. x 16 ft.

One guard lock and weir.

Directing the course of river Delisle—earth excavation, 42,293 cubic yards; rock excavation, 1,930 cubic yards.

Two locks at river Delisle, 8 feet lift each and two weirs.

Three lock-houses.

One toll-keeper's house.

Fencing on one side for 57 acres.

Catch-water on one side for 117 stations, 20,800 cubic yards.

Damage for road-way, 114 acres.

Protection wall on both sides of canal, 7,000 feet.

Pumping at guard lock, and at lock, river Delisle.

No improvements to reduce materially the cost of this section can be effected.

SECTION NO. 2.

Taking the course of river St. Lawrence from pointe Fer à Cheval does not present any obstacle for navigation, except the Pointe-au-Diable, where there is a strong current with a velocity of over 5 miles per hour at extreme low water. At this point is placed a lock of 2 feet lift from Pointe-au-Diable. This river is navigable without obstruction to the Pointe-au-Wattier, where the velocity of the water, as ascertained, is 3 miles per hour at low water, then no difficulty whatever to Pointe-à-Biron. The channel of the river St. Lawrence has been examined and found 14 feet deep and upwards.

Approximate Estimates of the quantity and quality of work in Section No. 2.

Earth excavation under water, 13,132 cubic yards.

Earth excavation, 117,780 cubic yards.

Rock excavation, 15,107 cubic yards.
 One lock at Pointe-au-Diable, 2 feet lift.
 One lock-house.
 Roadway, 8 acres.
 Pumping for lock.
 Protection wall on both sides of canal, 466 feet.

SECTION NO. 3.

Commencing at station 323, or Pointe-a-Biron, running almost northerly, passes for 4,000 feet in length in Roussin's gully, then turning north-easterly towards Chamberry gully, making intersection at station 190 of inland.

As St. Lawrence River, at Pointe-à-Biron, is 32 feet below the level of lake St. Francis, a through full cut to Chamberry gully will be required. Only a guard lock with waste weir is placed at Pointe-à-Biron.

The deepest cut in the section is 34 feet, but it may be improved by changing the line taking more to the right to Roussin's gully, so as to avoid the high bank of Chamberry gully, where the present line passes. No rock has been found in this section.

Approximate Estimates of the quantity and quality of work in Section No. 3.

Earth excavation under water, 52,444 cubic yards.
 Earth excavation, 1,795,954 cubic yards.
 Two swing bridges.
 Two bridge-houses.
 One guard lock and weir.
 One lock-house.

River Line.

Fencing on both sides, 50 acres.
 Roadway for 102 acres.
 Clearing and grubbing, 17 acres.
 Pumping for guard lock.
 Protection wall on both sides of canal, 15,500 yards.

SECTION NO. 4.

Intersecting inland line at station 190, it takes the same course as the inland and character of the work is the same.

(See section No. 4—Inland line.)

Submitting the present report, I must acknowledge my thanks to Mr. R. Stekel, civil engineer, for his valuable assistance, as hydraulic engineer, and I may add, also, that Messrs. Charles Taché and Philias Boulay performed their duties in the most satisfactory manner.

I have the honour to be, sir, your obedient servant,

F. C. FARIJANA,

Civil Engineer.

REPORT ON THE OPENING OF NAVIGATION IN THE VICINITY OF
 PROPOSED NORTH SHORE AND BEAUHARNOIS CANALS AND OTHER
 SUBJECTS CONNECTED WITH PROPOSED NORTH SHORE CANAL.

OTTAWA, 12th May, 1878.

To G. F. BAILLAIRGÉ, Esq., Asst. Chief Engineer, Public Works of Canada.

*SIR,—On the 14th of April last, I received verbal instructions from you to proceed to different points in the vicinity of the proposed north shore canal, there.

1st. To examine and make all the necessary observations with regard to the breaking up of the ice; the spring rise of the waters of the rivers St. Lawrence and Ottawa,

and all the general and particular facts which would bear upon the proposed north shore, and upon what comparison this proposed canal would stand with the canal on the south shore opposite in view of their early navigation.

2nd. Also to take the maximum spring water rise of rivers Delisle, Rouge and à la Graise at the crossings of said proposed canal.

3rd. Also to find out the situation of the nearest quarry suitable for the construction of locks and other works in connection with said proposed canal.

In conformity with these instructions, I would beg to report: that reaching Cedars on the 17th April, I proceeded at once to Cascades. The ice on the Ottawa river had not yet begun to move, as the ice on lake St. Louis still held on. I observed, however, at Chamberry gully, that the stream bearing the same name and flowing out at that point had formed for itself a large open channel clear of ice, of 4 or 5 feet in width, and extending a quarter of a mile out into the Ottawa River.

On the 18th I left for Coteau Landing. The ice on lake St. Francis was just breaking up and moving down.

On the 20th, lake St. Francis was clear of ice. I crossed this day over the head of Beauharnois canal, after noting down that the ice was all clear from front of Coteau Landing.

In my previous report I mentioned that it would be possible to shorten the proposed north shore canal by about a mile, by the construction of a dam between French island and the mainland, but that I would not venture to recommend such a course, as the artificial bay thereby formed would accumulate ice in the spring and retard navigation. This I found to be the case with regard to the head of the Beauharnois Canal. On reaching the head of this canal I found the ice still firm. I returned to this point on the 23rd and 26th. I found on all these dates the ice firm and without much variation. This ice extends continuously from the entrance of Beauharnois Canal backwards to the head of Clark's Island and Grosse Point on the south shore.

Two men accompanied me on to and across it. Cutting into it at various points, I found it of a thickness of 18 inches.

I enclose herewith two small maps, one of the foot of lake St. Francis and the other of the head of lake St. Louis, showing the situation and accumulation of the ice at different points, and the dates thereof and of its disappearance.

CASCADES.

On the 20th of April the ice on the Ottawa commenced breaking up, and on the 23rd it was clear of ice, with the exception, as indicated on map No. 2, of a field of accumulated ice still holding on about a mile north of Cascades Island, the upper part of this field of ice resting on shoals which I have indicated on said map. These shoals, which are 2 feet below lowest water, consist of boulders resting on a sandstone bottom. A large mass of ice accumulates here during winter and spring, and this is easily explained. During the winter masses of jammed ice and "frasil" are continually floating down the rapids between Cascades Point and Cascades Island opposite. They strike on and are arrested by these shoals, where they sink by the force of the current and accumulate within the channels between these shoals.

These shoals might be removed at a cost of about \$160,000, at a rough estimate, securing a uniform depth of 17 feet of water everywhere over them.

The presence of these shoals, however desirable their removal would be, for many considerations, would not, I am bound to say, affect or retard the early navigation of the proposed canal on the north shore, there being two large and deep channels on each of these shoals which are completely free from ice as soon as the discharge of ice has taken place from the Ottawa River.

On the 26th of April, starting from Cascades, I took the soundings on both sides of these shoals, and I found the two channels everywhere giving a depth of over 20 feet and from 200 to 300 feet wide.

I mentioned above that the Ottawa was clear of ice on the 23rd. On the 24th I sailed in a boat from Cascades point to Ile Perrot church, with the intention of reach

ing, from the last-mentioned place, the foot or outlet of the Beauharnois Canal. On arriving within a quarter of a mile of the foot of this canal our further progress was arrested by the presence of a large field of ice which had not yet broken up or given way. There was over a quarter of a mile of ice here at the mouth of the canal. On the 26th the ice was still holding here. It gave way and disappeared only on the 29th. (See map No. 2.)

From general testimony and from my own personal observation this spring at the foot of lake St. Francis, I confidently state that navigation opens much earlier at this point on the north than on the south shore.

On map No. 1, of the foot of lake St. Francis, I have indicated that opposite Coteau Landing, at the entrance to proposed north shore canal, the lake was clear of ice on the 20th of April, whilst on the south shore, at the entrance to Beauharnois Canal, the ice held firm on the 20th, 23rd and 26th April, dates at which I took my observations, and that the ice did not disappear from here before the 29th—nine days later than on the north shore.

With regard to early navigation from the foot of the Beauharnois Canal and the foot of the proposed north shore canal at Cascades on the Ottawa, from my personal observation this spring and from information extending over many years back, gathered from various sources, and particularly from dates covering eight years, furnished me by the Chateauguay Navigation Company, and from extracts of statistics of the office of public works, Ottawa, of the dates of the opening of navigation of the Beauharnois Canal during the same number of corresponding years, I find all the facts showing conclusively that navigation at the foot or outlet of the proposed north shore canal, on the Ottawa, opens earlier than at the foot of the Beauharnois. On the second map it will be seen that I have indicated the dates at which navigation opened this spring at both of these last points. It will be there noted that the ice held at the foot of the Beauharnois Canal on the 26th, and that this point was only clear of ice on the 29th April, whilst at the foot of the proposed north shore canal the ice on the Ottawa River had cleared and navigation was open on the 23rd, that is, six days earlier than at the foot of the Beauharnois Canal.

Table of dates furnished by Chateauguay Navigation Company of the steamboat arrival at Cascades, Ottawa River: <i>Steamboat arrival at Cascades.</i>	Dates from office of public works, Ottawa, of opening of navigation of Beauharnois Canal: <i>Navigation open at Beauharnois.</i>
1846.....13th April	1846.....16th April.
1847.....20th “	1847.....5th May.
1848.....10th “	1848.....12th April.
1849.....11th “	1849.....19th “
1850.....24th “	1850.....26th “
1851.....15th “	1851.....25th “
1852.....30th “	1852.....2nd May.
1853.....28th “	1853.....29th April.

2nd. With regard to the rise of the water this spring up to opening of navigation, the following observations were taken by me:—

At the foot of lake St. Francis the maximum rise this spring was $1\frac{1}{2}$ feet above ordinary water mark.

On the Ottawa River, at Cascades, various measurements taken by me gave the maximum rise a little under 2 feet above ordinary water level.

The rise on the river Delisle this spring was 3 feet above its ordinary level, showing correctness of information taken on the spot with regard to former years, and mentioned in my previous report.

In the same report, I stated that from information obtained in the locality the greatest rise of water known of river Rouge was 10 feet. This year the maximum rise of this stream was 2 feet above ordinary water level.

I also stated, from the observation taken during the winter season, that I thought a culvert of 12 feet would be sufficient at the crossing of this river by the north shore canal. From my examination this spring I have concluded that a double culvert would be required. I recommended at the same time that a dam might be constructed instead. I am now satisfied that this would be the more advantageous, more economical course, and the most beneficial in its results. A dam constructed so as to throw the water back some four miles, I would recommend. This would answer the purpose, besides rendering the steam navigable for that distance, and creating water power; it would not be followed by any appreciable damage, the banks of this stream being high.

The rise of the water in the rivière à la Graise was about one foot above ordinary water level, and a culvert of 12 feet would be sufficient.

Finally, with regard to stone suitable to the construction of locks, I found good quarries of limestone at the mouth of the rivière à Delisle, and a quarter of a mile higher up, at a point near the line of proposed canal. At Cascades and Cascades Island the same qualities of stone prevails as at Beauharnois. About 10 feet from the surface the stone is of a superior quality.

Materials, therefore, for the construction of canal, locks, &c., abound in the vicinity of the location of the locks of the said proposed canal.

I have the honour to be, sir, your obedient servant,

F. C. FARIJANA,
Civil Engineer.

REPORT OF MR. CRAWFORD, 1874.

Note.—This report is attached to report of G. F. Baillairgé, dated 17th September, 1874, and also to that of chief engineer, dated 9th July, 1874, on the navigation of the river St. Lawrence, between lake Ontario and Montreal.

COTEAU LANDING, 29th March, 1873.

DEAR SIR,—The survey of the lower part of lake St. Francis being now finished, I beg to submit my report with the following list of tracings, which will show you quite as well as the finished drawing what information has been gained, and at a much earlier date. I will now have the drawings finished up, both for this lake and lake St. Louis, and also have the note-books copied and put in proper shape, that there will be no difficulty in making use of them at some future time, if wanted.

1st. General plan of lake St. Francis, between McKie's point and foot of the lake, showing the existing 9 and 14 feet shoals, and the position of the soundings and borings. Scale, 800 feet to the inch.

2nd. Detail plan of Valleyfield harbour, with the soundings, and general result of borings. Scale, 200 feet to the inch.

(3rd.) Detail plan of the lake from Valleyfield harbour to Port Louis shoal, with the soundings as taken. Scale, 200 feet to the inch.

4th. Detail plan of Port Louis shoal. Scale, 200 feet to the inch.

5th. Proposed new channel through Valleyfield harbour, with shoals sketched on, and approximate estimate of dredging required for a channel 300 feet wide at bottom, and slopes three to one. Scale, 200 feet to the inch. Line No. 1.

6th. Scale, 200 feet to the inch. Line No. 2.

7th. do do do Line No. 3.

8th. do do do Line No. 4.

9th. do do do Line No. 5, or by deepening and enlarging the present channel

10th. Plan of borings made in Valleyfield, showing how these have been classified, to form a basis for a tolerably correct estimate.

The system adopted for the survey was to run instrumental lines in the centre of the present channel, from which lines of soundings were run at right angles, at distances apart of from 100 to 600 feet, according to the nature of the ground. In Valleyfield harbour, where there are many shoals, and the bottom is very uneven, these lines were 100 feet apart; at Port Louis shoal, where the bottom is very even, at 200 feet; and in other parts of the lake, where the water was deep, at 500 or 600 feet. Along these cross lines the soundings were taken at 50 feet apart in Valleyfield harbour, and elsewhere at 100 feet. By this plan, if the point looked doubtful, the party could return and examine it as fully as required without any loss of time.

A separate series of instrumental lines was run for the survey of the shorewash, not only to be able to lay down the shore correctly on the plan, which is important, but also to secure points ashore which could be used, if required, after the ice had gone.

The surveys were frequently connected to check each other, and both were calculated to the same base line for plotting by co-ordinates, by which plan the smallest error could be detected, and the utmost possible exactness was ensured for all parts of the work.

The soundings were taken nearly all the time with a wrought iron weight and chain 51 feet long, which was as correct as a sounding pole, and very much more convenient, but for a short time the ordinary lead line had to be used (in deep water), till the chain, which had been lost through the ice, was replaced.

A number of soundings are marked with a cross, thus: 51 x and 72 x, which means that bottom was not touched, and the former case with a 51-foot chain, and in the latter with a 12-fathom lead line.

A small portion of open water near the entrance to Valleyfield harbour had to be sounded in a boat, and the position of the soundings were fixed by two instruments from a base line on the ice.

All the soundings taken have been reduced to the standard of 10 feet 6 inches water on mitre sill of lock No. 14, Beauharnois Canal, to do which I had three gauges kept in different parts of the lake, viz., Valleyfield, Coteau Landing, and near Mackie's light, all of which were taken three times a day at the same hour.

After finishing Valleyfield harbour the survey was run up the lake along the so-called south channel, as far as its junction with the north channel, or rather to a point a little west of this, in consequence of the pilot making a mistake about this point.

The north channel was then followed as far as Coteau Landing.

In both channels shoal water was struck near Port Louis over the whole width (2,000 feet) already sounded on the south channel, and for part of that on the north channel; therefore, the lines of soundings were extended on the south channel to trace these shoals, and after a great deal of work it was found that one large shoal runs from the south side of the river in a north-easterly direction over the greater portion of the lake up to the north channel, where it ends very abruptly, the depth increasing from 10 to 50 or 60 feet in about 150 or 200 feet.

A number of borings were put down in different parts of this shoal (shown on the drawings by small black crosses), and the result was invariably mud or sand, and so soft that frequently the rod went down of its own weight, and with no indications of any harder material.

The south channel crosses this shoal for about two miles, and although a shorter crossing can be had there would still be a great deal of dredging required.

A glance at the soundings seems to show that the north channel is the natural bed of the river, and is diverted northwards by this Port Louis shoal. I therefore thought that it would be better in going to Valleyfield to keep this channel for about 3 or 4 miles further east, till the shoal was passed, and then strike across the lake direct to the harbour, as I understand is frequently done by the mail steamers at present. I therefore had a line run to test this route, and found that this would give an excellent channel, there being no obstacles, except a couple of small shoals shown on the plan, at

the entrance to Valleyfield harbour and at the north-east corner of Port Louis shoal, the dredging of which would not amount to more than a few hundred yards.

If this channel be adopted, two lightships to mark the turns should be substituted for the present McKie light, the very soft bottom and comparatively deep water making stationary lights expensive.

In the north channel to Coteau Landing there is abundance of water, excepting the small shoal already mentioned at the north-east corner of Port Louis shoal, where a little dredging should be done to make the channel perfect.

This shoal, like the large one, is exceedingly soft sand and mud.

VALLEYFIELD HARBOUR.

This part of the work, being one of the most important, has had an extra amount of care and time devoted to it. It required 4,616 soundings and 327 borings, but I think I may flatter myself that it has been thoroughly done, and that all the information that you can possibly require has been obtained.

In the plan I have sketched in and coloured the 9 and 14 feet shoals to assist in choosing a channel, and to further this object I also give you five different proposed channels (in separate sheets), with the approximate quantities of dredging required on each, for a width of 300 feet wide at bottom, and slopes three to one.

This is a little in excess of the width recommended by the Canal Commissioners, but I thought that heavy tows would find it quite as much as they could do to keep within a channel of 300 feet, around some of the sharp turns. If, however, you think a less width would answer, I can easily make the necessary calculations.

Boulders were met very frequently in the borings, and, of course, may give a great deal of trouble to remove; but as well as I could judge, those that I met were not generally very formidable.

To show you at a glance the result of the borings in the harbour, I have divided them into the following classes, and on a plan, which I now send you, I have entered, where the boring was taken, the letter of the class to which it belongs.

1st class.—Very easy dredging. "A." Very soft mud, sand or gravel.

2nd class.—Ordinary dredging. "B." Layer of small stones from 12 to 24 inches thick, covering soft clay and gravel, or hard clay and gravel. "C." Large stones, which can likely be lifted by a dredge, but at some expense, mixed with clay and gravel.

3rd class.—Likely to be troublesome. "D." Soft material, where a boulder was struck below 14 feet from standard surface, which I considered indicated that others might be found in the vicinity, at perhaps higher levels. "E." Hard material, with boulders below 14 feet.

4th class.—Very difficult. "F." Soft material, with boulders above 14 feet. "G." Hard material, with boulders above 14 feet.

These I have re-arranged in four classes as above, for making an estimate, and on next page I give you a table with the quantities of dredging belonging to each class, with the information showing the comparative merits of each line.

The quantity of dredging assigned to each class is in proportion to the number of borings of that class—for example: in the first shoal west on No. 1 line, after leaving the Beauharnois Canal, there are thirty-eight borings made, excluding those taken in the 9 feet shoal, as that seems to differ slightly from the main shoal.

2	of these 38 borings are class	A	.....	5	per cent.
28	do	do	B	.....	74 do
1	do	do	C	.....	} 13 do
1	do	do	D	.....
3	do	do	E	.....	} 8 do
2	do	do	F	.....
1	do	do	G	.....

COMPARATIVE TABLE of Five proposed new Channels in Valleyfield Harbour.

	APPROXIMATE ESTIMATE OF DREDGING TO BE DONE.					Ratio of total Dredging in each Line.	Average Class.	Length of Line.	Ratio of Length of each Line.	No. of Ranges.	No. of objectionable Angles.
	1st Class.	2nd Class.	3rd Class.	4th Class.	Total.						
No. 1 line	14,580	70,124	19,920	7,992	112,616	80	219	11,070	105	5	2
No. 2 do	19,367	48,542	30,123	5,520	103,552	74	221	11,560	110	5	3
No. 3 do	9,360	39,993	31,191	9,408	89,952	64	164	11,110	105	6	2
No. 4 do	26,373	73,718	26,029	13,967	140,087	100	210	10,535	100	3	0
No. 5 do	17,578	74,918	25,145	14,121	131,762	94	227	10,700	102	5	3
Present channel.											

In making out the average class column it is supposed that the cost of dredging increases in a gradual proportion according to the number of the class. The average and dividing the sum of these by the total quantity in the line.

In all cases 20 per cent. is added for contingencies.

After examining this table, and the plans of the different lines, I think the conclusion arrived at must be that No. 3 line is the best. There is 36 per cent. less dredging than on No. 4 line, and 10 per cent. less than on any other.

The material also, taking the average throughout, is decidedly easier to work (average class 164, against 219, or 15 per cent.). On the other hand, it is slightly longer than two or three other lines (Nos 4 and 5), and has two objectionable turns, but in this respect it is only inferior to No. 4 line. It has also a greater number of ranges than any of the others, which makes it more complicated, but I think this may be remedied to a certain extent by so arranging two lights that they will each mark one turn, and when they come in line will mark another.

No. 4 line is the most direct, and, of course, would be the best if cost were no object.

No. 5 line is along the present channel very nearly, and to my mind has nothing to recommend it except its length, but in this respect there is very little difference in any of the lines.

In order to make a fair comparison between the different lines I had to keep a uniform width throughout; but if either Nos. 3 or 5 is chosen it would perhaps be better to contract the channel between the outside white lighthouse and the pier, making a saving of some 17,000 cubic yards, but, of course, would injure the channel.

Before closing, I have much pleasure in bringing to your notice the untiring zeal displayed by my assistant, Mr. J. L. Watson, and the rodmen, Messrs. A. L. Jarvis and C. J. Steers. The work has been extremely hard, so much so that although paying very high wages, I could not get the men to stay on longer than a few days at a time, and yet these gentlemen have not only faced every kind of weather most cheerfully, but on their return here, after a hard day's work, have continued till a late hour in the office almost every night, that you might be supplied with the fullest information whenever it was called for.

I have the honour to be, sir, your obedient servant,

WILLIAM CRAWFORD.

JOHN PAGE, Esq., Chief Engineer Public Works, Ottawa.

LAKE ST. LOUIS SURVEY.

REPORT BY WILLIAM CRAWFORD, DATED 31st DECEMBER, 1872.

LACHINE, 31st December, 1872.

DEAR SIR,—About three weeks ago the weather put a stop for this season to further out of door work on lake St. Louis, and since then I have used the utmost diligence to push on the preparation of the plans, for I am most anxious to get to lake St. Francis at the earliest possible date to commence work there, as I understand the ice is now ready for us.

I have now the honour to submit the following tracings which, I think, will show you what work has been done, and require but a few words of explanation :—

1st. General plan of lake St. Louis, between Lachine and Nun's Island, to a scale of 500 feet to the inch.

2nd, 3rd and 4th. Enlarged plans of the same district, showing the soundings and borings made in the main channel, to a scale of 200 feet to the inch.

5th. Plan of soundings taken at the lower entrance to Beauharnois Canal at Melocheville, to a scale of 200 feet to the inch.

In getting up the plans little time has been devoted to the purely artistic portion, as I thought that this would be more in accordance with your wishes ; but more than ordinary care has been taken with the accuracy of the work, both out of doors and in the office ; and the work is as mathematically correct as is possible with ordinary instruments.

The principal points of survey, and the different base lines from which the soundings have been fixed, have all been most carefully triangulated and calculated, and every possible precaution has been taken to prevent the smallest error in this the essential part of the work.

The system adopted for making the soundings was that being used by Mr. Thompson when he handed over the work to me, namely, of first finding out where shoals existed, by running a steamer down the channel, with long poles fixed to a depth of 14 feet, and afterwards carefully sounding in a small boat the places where the poles had touched bottom. This saved a great deal of time, as there are many patches with plenty of water which require no special attention.

The position of every sounding and boring was established by angles taken by two 6-inch transits fixed at either end of a convenient base line ; and by a system of signals the two angles and the sounding were taken exactly at the same moment.

The distances being so great, the plan would have been unwieldy if drawn to the smallest scale that would have permitted the soundings being entered. I have, therefore, given you a general plan on a smaller scale, with shoals sketched on, which will show you in a convenient form where work will require to be done, and I also send three sheets of details, with full particulars of the soundings, that you may see the extent of such work. I could not well have used larger scales without some much more elaborate protractor for plotting the angles than was in my possession.

The soundings between Nun's Island and Lachine have all been reduced to the standard of 9 feet water on the mitre sill of lock No. 5, Lachine Canal, and those at Melocheville to the same depth on the mitre sill of lock No. 6, Beauharnois Canal. In making these reductions I have taken the nearest half foot below the soundings given me by the different lockmasters, so as to be on the safe side, but my own soundings were not taken closer than 2 feet.

On both the general plan and the enlarged details I have laid down approximately the present steamboat channel with a red line, and by way of showing its width more clearly I had a line of soundings run on each side of it, between Nos. 1 and 2 lightships, which on the enlarged plan I have shown with all the soundings taken, but on the general plan I had to omit many on account of the small scale.

I have made no calculations as to the probable quantity of material required to be dredged, until I could consult you as to the width you intend making the channel.

I think it is possible that a better channel might be found by diverging from the present one a little west of No. 3 lightship, and taking a tolerably direct course to No. 1 lightship, passing close to St. Nicholas Island, but there was no time to do anything at it further than was required for our immediate use in running about the lake; and, therefore, I can only say I think it is worth some examination before commencing work on the present channel.

The district between Nun's Island and Melocheville was examined by running over the present north or main channel with the long poles fixed to 14 feet depth of water, and as these indicated that there was always more than that depth of water, I paid no further attention to this part of the work.

My success with the borings was not very great; owing to the very unfavourable weather after we were in a position to begin work, the difficulty of carrying on both the soundings and borings at the same time with a small party, the time lost in having to move out of the way of steamers and barges, especially at the shoal near No. 1 lightship, and other minor hindrances, therefore, instead of being able to test all the shoals as I hoped to do, we could only examine two.

I enclose you a paper giving full particulars of all the borings made, but the general result is: that to the depth of 16 feet 2 inches below standard water surface, at the shoal near No. 1 lightship, which I have marked "A," there is no indication of rock, except at borings Nos. 10 and 14, and at shoal "B," to a depth of 17 feet 4 inches, the same result, except at boring No. 19—the material in both shoals being generally a stiff blue clay, mixed with small stones, and sometimes gravel. Large boulders were pretty common, the largest one met being 5 feet thick.

No. 10 boring showed 2 feet 6 inches rock or boulders, when the work had to stop on account of the shortness of the rod; but fortunately this occurs at a depth beginning at 13 feet 7½ inches to 16 feet 1½ inches below the standard surface, therefore it is not likely to give much trouble in any case. I am inclined to think it rock proper on account of its softness, for usually when boulders were met the boring rod could make little impression.

Nos. 14 and 19 borings, I should say, were both evidently small boulders or stones.

From all I could learn, the water west of the channel, between No. 1 lightship and Lachine, is so shallow that it is not likely to be chosen by you as the approach to the canal, therefore I had no borings made, except in the vicinity of the present channel.

A third shoal near No. 2 lightship I have marked "probably sand," as I judge from the peculiar manner in which the long poles on the steamer stuck in this that it must be sand or some soft material.

I wished to have done something in taking the rate of the current in different parts of the lake, which will, of course, materially affect any works that may be carried out, but we had so little favourable weather for any kind of work on the water that every moment was taken up with some more important work, and all I can say is, that I am told the current runs at the rate of 3 to 4 miles an hour, but I am satisfied there is a great difference in different parts.

Hoping that these explanations will enable you to understand fully all the information that has been acquired during the last summer on lake St. Louis, and that they will meet with your approbation.

I have the honour to be, sir, your obedient servant,

WILLIAM CRAWFORD.

JOHN PAGE, Esq., Chief Engineer Public Works, Ottawa.

NOTE.—Report of Mr. Crawford, dated 22nd March, 1879, being included with the report of Mr. Baillairgé, is not repeated here.

BORINGS made at Lake St. Louis during November, 1872.

SHOAL NEAR No. 1 LIGHTSHIP, "A."

Number of Boring.	Depth of Water.	Total thickness bored through.	Depth of Boring below Standard Surface Water.	Remarks.
	Ft. in.	Ft. in.	Ft. in.	
1	11 8	1 11	13 7	Stiff blue clay mixed with small stones.
2	9 8	0 9	10 5	Struck a boulder, and boring was discontinued.
3	9 3	0 12	10 3	Clay; scow had to move out of way of passing steamer.
4	11 5	2 11	14 4	Stiff blue clay.
5	11 6	4 0	15 6	do
6	12 0	2 6	14 6	do could get no further with auger-bit.
7	12 0	1 0	13 0	do had to move out of the way.
8	12 0	3 0	15 0	do auger-bit broke.
9	11 0	1 0	12 0	do too late to finish boring.
10	12 1½	4 0	16 1½	12 in. of small stones, 6 in. of hard clay, and 2 ft. 6 in. of rock or boulders, through which the boring rod had not got.
11	12 7½	3 6	16 1½	12 in. small stones, 2 ft. 6 in. gravel and clay (very hard).
12	10 7½	2 4	12 11½	Stiff clay, with small stones; struck boulder, and could get no further.
13	10 9½	5 4	16 1½	18 in. stiff clay, with small stones; 3 ft. 10 in. gravel.
14	11 7½	4 6	16 1½	15 in. stiff clay, with 12 in. boulders or rock; 2 ft. 3 in. gravel and clay (very hard).
15	12 7	3 10	16 5	15 in. small stones, 2 ft. 7 in. hard clay and gravel. (Shoal marked "B" on plan.)
16	15 2	2 6	17 8	12 in. small stones, 18 in. soft clay.
17	14 2	2 8	16 10	Small stones and clay, very hard at top, but softer towards the bottom.
18	14 8	2 8	17 4	do do
19	13 0	4 4	17 4	2 ft. small stones and hard clay, 8 in. boulders, 1 ft. 8 in. hard clay and gravel.
20	14 0	3 4	17 4	Hard clay and small stones.
21	13 0	3 4	16 4	do (softer towards the bottom).
22	14 9	2 3	17 0	Clay and small stones (softer than usual).

WILLIAM CRAWFORD.

RETURN

(63)

To an ADDRESS of the HOUSE OF COMMONS, dated the 5th May, 1891;—For copies of all correspondence, petitions, memorials, briefs and factums, and of any other documents submitted to the Privy Council in connection with the abolition of Separate Schools in the Province of Manitoba by the Legislature of that Province; also copies of Reports to and Orders in Council thereon; also copies of an Act or Acts of said Legislature abolishing said Separate Schools or modifying in any way the system existing prior to 1890.

By order.

GEO. E. FOSTER,

For Secretary of State.

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No. 1.

(Translation.)

MONTREAL, 23rd March, 1891.

SIR,—I send you enclosed a Petition signed by the Catholic Episcopacy of the Dominion of Canada, and beg that you will lay the same before His Excellency the Governor General in Council.

I am confident that you will give your whole support to this Petition and commend it to your colleagues when presenting it to them.

Several of the venerable prelates, being unable to sign themselves, authorized certain of their fellow-bishops to do so for them, as you will see by the papers hereunto annexed.

Your obedient servant,
ALEX.,
Archbishop of St. Boniface, O.M.I.

Honourable J. A. CHAPLEAU, M.P., Secretary of State, Ottawa.

A.

Telegram.

BELLEVILLE, ONT., March 23, 1891.

His Grace Archbishop Taché, St. Matthew Street, Montreal.

Have not seen document; you may, however, attach my name.

J. FARRELLY.

B.

MONTREAL, March 16, 1891.

I hereby certify that by special authority from their Lordships the Right Rev. Monseigneur Grandin, Bishop of Saint Albert, and Monseigneur Isidore Clut, Bishop of Arindèle, I have affixed their signatures to the petition addressed to His Excellency the Governor General in Council *re* Manitoba Catholic Schools, &c., &c.

ALEX.,
Archbishop of St. Boniface, O.M.I.

C.

ARCHBISHOP'S HOUSE, HALIFAX, N.S., March 17, 1891.

I hereby certify that by special authority from their Lordships the Bishops of St. John, Charlottetown, Antigonish and Irina, I have this day affixed their signatures to the petition of His Grace Archbishop Taché to His Excellency the Governor General in Council.

C. O'BRIEN,
Archbishop of Halifax.

D.

Telegram.

NEW WESTMINSTER, B.C., 15th March, 1891.

To Rev. Archbishop Taché, General Hospital, Montreal :—

Consenting to sign.

BISHOP DURIEU.

E.

VICTORIA, B.C., 11th March, 1891.

To Archbishop Taché, General Hospital, St. Matthew Street, Montreal :—

I willingly give my name to petition.

J. N. LEMMENS.

To His Excellency the Governor General in Council:—

The petition of the Cardinal Archbishop of Quebec, and of the Archbishops and Bishops of the Roman Catholic Church in the Dominion of Canada, subjects of Her Gracious Majesty the Queen,—

Humbly sheweth:—That the seventh legislature of the Province of Manitoba, in its third session assembled, has passed an Act intituled, "An Act respecting the Department of Education," and another Act, to be cited "The Public School Act," which deprive the Roman Catholic minority of the province of the rights and privileges they enjoyed with regard to education;

That during the same session of the same parliament there was passed another Act, being Fifty-three Victoria, chap. xiv., to the effect of abolishing the official use of the French language in the parliament and courts of justice of the said province;

That the said laws are contrary to the dearest interests of a large portion of the loyal subjects of Her Majesty;

That the said laws cannot fail to grieve, and in fact do afflict, at least the half of the devoted subjects of Her Majesty;

That the said laws are contrary to the assurances given, in the name of Her Majesty, to the population of Manitoba, during the negotiations which determined the entry of the said province into Confederation;

That the said laws are a flagrant violation of the British North America Act, 1867, of the Manitoba Act, 1870, and of the British North America Act, 1871; that your petitioners are justly alarmed at the disadvantages, and even the dangers, which would be the result of a legislation forcing on its victims the conviction that public good faith is violated with them, and that advantage is taken of their numerical weakness, to strike at the Constitution under which they are so happy to live.

Therefore, your petitioners humbly pray your Excellency in Council to afford a remedy to the pernicious legislation above mentioned, and that in the most efficacious and just way.

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

MONTREAL, 6th March, 1891.

E. A. Card. Taschereau, Arch. of Quebec; Alex., Arch. of St. Boniface; C. O'Brien, Arch. of Halifax and 24 others.

EDOUARD CH., Arch. of Montreal;	J. THOMAS, Arch. of Ottawa;
JOHN WALSH, Arch. of Toronto;	(a) J. FARRELLY, Administrator, Diocese of Kingston;
JEAN, ARCH. of Leontopolis;	(c) JOHN SWEENEY, Bishop of St. John;
(b) VITAL, J., Bishop of St. Albert;	(b) ISIDORE CLUT, O.M.I., Bishop of Arindèle;
(c) PETER McINTYRE, Bishop of Charlottetown;	T. O'MAHONY, Bishop of Eudocie;
L. F., Bishop of Three Rivers;	ANTOINE, Bp. of Sherbrooke.
(c) J. CAMERON, Bp. of Antigonish;	L. Z., Bishop of St. Hyacinthe;
(d) PAUL DURIEU, O.M.I., Bish of New Westminster;	N. ZEPHIRIN, Bp. Cythère, Vic. Apost. of Pontiac;
THOMAS JOSEPH, Bp. of Hamilton;	ELPHÈGE, Bishop of Nicolet;
(e) J. N. LEMMENS, Bp. of Vancouver;	(f) RICHARD A. O'CONNOR, Bishop of Peterboro';
ANDRÉ ALBERT, Bp. of St. Germain de Rimouski;	(g) ALEXANDER MACDONELL, Bishop of Alexandria;
(c) J. C. McDONALD, Tit. Bp. of Irina;	(h) DENNIS O'CONNOR, Bp. of London;
Administrator of the Diocese of Chicoutimi, during the absence of Mgr. Bégin, in Europe.	(i) N. DOUCET, Priest, V.G., Prot. Apost.

No. 2.

REPORT of a Committee of the Honourable the Privy Council, approved by His Excellency the Governor General in Council on the 4th April, 1891.

The Committee of the Privy Council have had under consideration the annexed Report, dated 21st March, 1891, from the Minister of Justice upon the two Acts of the following titles passed by the Legislature of the Province of Manitoba at its session held in the year 1890, which Acts were received by the Secretary of State on the 11th April, 1890, namely:

Chapter 37—"An Act respecting the Department of Education," and

Chapter 38—"An Act respecting Public Schools."

The Committee submit the same for approval, and they advise that the Secretary of State be authorized to forward a copy of this Minute, together with the Report of the Minister of Justice, to the Lieutenant Governor of Manitoba.

JOHN J. MCGEE, *Clerk Privy Council.*

DEPARTMENT OF JUSTICE, CANADA, 21st March, 1891.

To His Excellency the Governor General in Council:

The undersigned has the honour to report upon the two Acts of the following titles passed by the Legislature of the Province of Manitoba at its session held in the year 1890, which Acts were received by the Honourable the Secretary of State on the 11th April, 1890:

Chapter 37—"An Act respecting the Department of Education," and

Chapter 38—"An Act respecting the Public Schools."

The first of these Acts creates a Department of Education, consisting of the Executive Council, or a Committee thereof, appointed by the Lieutenant Governor in Council, and defines its powers. It also creates an Advisory Board, partly appointed by the Department of Education, and partly elected by teachers, and defines its powers. Also,

The "Act respecting Public Schools" is a consolidation and amendment of all previous legislation in respect to Public Schools. It repeals all legislation which created and authorized a system of Separate Schools for Protestants and Roman Catholics. By the Acts previously in force either Protestants or Roman Catholics could establish a school in any school district, and Protestant ratepayers were exempted from contribution for the Catholic Schools, and Catholic ratepayers were exempted from contribution for Protestant Schools.

The two Acts now under review purport to abolish these distinctions as to the schools, and these exemptions as to ratepayers, and to establish instead a system under which public schools are to be organized in all the school districts, without regard to the religious views of the ratepayers.

The right of the Province of Manitoba to legislate on the subject of education is conferred by the Act which created the Province, viz.: 32-33 Vict., chapter 3 (The Manitoba Act), section 22, which is as follows:—

"22. In and for the Province of Manitoba the said Legislature may exclusively make laws in relation to education, subject to the following provisions:—

"(1) Nothing in any such law shall prejudicially affect any right or privilege with respect to denominational schools which any class of persons have by law or practice in the Province at the Union.

"(2) An appeal shall lie to the Governor General in Council from any act or decision of the Legislature of the Province, or of any Provincial authority affecting any right or privilege of the Protestant or Roman Catholic minority of the Queen's subjects in relation to education.

"(3) In case any such Provincial law as from time to time seems to the Governor General in Council requisite for the due execution of the provisions of this section, is not made, or in case any decision of the Governor General in Council, on

any appeal under this section, is not duly executed by the proper Provincial authority in that behalf; then, and in every such case, and as far only as the circumstances of each case require, the Parliament may make remedial laws for the due execution of the provisions of this section, and of any decision of the Governor General in Council under this section."

In the year 1870, when the "Manitoba Act" was passed, there existed no system of education established or authorized by law; but at the first session of the Provincial Legislature, in 1871, an "Act to establish a system of Education in the Province" was passed. By that Act the Lieutenant Governor in Council was empowered to appoint not less than ten nor more than fourteen persons to be a Board of Education for the Province, of whom one-half were to be Protestants and the other half Catholics, with one superintendent of Protestant and one superintendent of Catholic schools. The Board was divided into two sections, Protestant and Catholic, each section to have under its control and management the discipline of the schools of its faith, and to prescribe the books to be used in the schools under its care which had reference to religion or morals. The moneys appropriated for education by the Legislature were to be divided equally, one moiety thereof to the support of Protestant schools, and the other moiety to the support of Catholic schools.

By an Act passed in 1875, the board was increased to twenty-one, twelve Protestants and nine Roman Catholics; the moneys voted by the Legislature were to be divided between the Protestant and Catholic schools, in proportion to the number of children of school age in the schools under the care of Protestant and Catholic sections of the board respectively.

The Act of 1875 also provided that the establishment in a school district of a school of one denomination, should not prevent the establishment of a school of another denomination in the same district.

Several questions have arisen as to validity and effect of the two Statutes now under review, among those are the following:—

It being admitted that "no class of persons" (to use the expression of the "Manitoba Act") had, "by law," at the time the Province was established, "any right or privilege with respect to denominational (or any other) schools." Had "any class of persons" any such right or privilege with respect to denominational schools, "by practice," at that time? Did the existence of separate schools for Roman Catholic children, supported by Roman Catholic voluntary contributions, in which their religion might be taught and in which text-books suitable for Roman Catholic schools were used, and the non-existence of any system by which Roman Catholics, or any others, could be compelled to contribute for the support of schools, constitute a "right or privilege" for Roman Catholics "by practice," within the meaning of the Manitoba Act? The former of these, as will at once be seen, was a question of fact, and the latter a question of law based on the assumption which has since been proved to be well founded, that the existence of separate schools at the time of the "Union" was the fact on which the Catholic population of Manitoba must rely as establishing their "right or privilege" "by practice." The remaining question was whether, assuming the foregoing questions, or either of them, to require an affirmative answer, the enactments now under review, or either of them, affected any such "right or privilege"?

It became apparent at the outset that these questions required the decision of the judicial tribunals, more especially as an investigation of facts was necessary to their determination. Proceedings were instituted with a view to obtaining such a decision, in the Court of Queen's Bench, of Manitoba, several months ago, and in course of these proceedings the facts have easily been ascertained, and the two latter of the three questions above stated were presented for the judgment of that Court, with the arguments of counsel for the Roman Catholics of Manitoba on the one side, and of counsel for the Provincial Government on the other.

The Court has practically decided, with one dissentient opinion, that the Acts now under review do not "prejudicially affect any right or privilege with respect to denominational schools" which Roman Catholics had by "practice at the time of

the Union," or in brief, that the non-existence, at that time, of a system of public schools and the consequent exemption from taxation for the support of public schools and the consequent freedom to establish and support separate or "denominational" schools did not constitute a "right or privilege" "by practice" which these Acts took away.

An appeal has been asserted and the case is now before the Supreme Court of Canada, where it will, in all probability, be heard in the course of next month.

If the appeal should be successful these Acts will be annulled by judicial decision, the Roman Catholic minority in Manitoba will receive protection and redress. The Acts purporting to be repealed will remain in operation, and those whose views have been represented by a majority of the legislature cannot but recognize that the matter has been disposed of with due regard to the constitutional rights of the province.

If the legal controversy should result in the decision of the Court of Queen's Bench being sustained the time will come for Your Excellency to consider the petitions which have been presented by and on behalf of the Roman Catholics of Manitoba for redress under sub-section (2) and (3) of section 22 of the "Manitoba Act," quoted in the early part of this report, and which are analogous to the provisions made by the "British North America Act," in relation to the other provinces.

Those sub-sections contain in effect the provisions which have been made as to all the provinces and are obviously those under which the constitution intended that the Government of the Dominion should proceed if it should at any time become necessary that the Federal powers should be resorted to for the protection of a Protestant or Roman Catholic minority against any Act or decision of the Legislature of the Province, or of any provincial authority, affecting any "right or privilege" of any such minority "in relation to education."

Respectfully submitted,

JNO. S. D. THOMPSON, *Minister of Justice.*

No. 3.

GOVERNMENT HOUSE, WINNIPEG, 10th April, 1890.

SIR,—I have the honour to transmit herewith the Memorial and Petition to His Excellency the Governor General in Council, of the Catholic Section of the Board of Education in and for the Province of Manitoba, signed by His Grace the Archbishop of St. Boniface, as President of the Catholic Section of the Board of Education, and by T. A. Bernier, Esq., Superintendent of Education for the Catholic Section, making certain representations upon and praying for the disallowance of two Bills passed during the Third Session of the Seventh Legislature of this Province, which were assented to by me on the Thirty-first ultimo, said Bills being intitled:—

"An Act respecting the Department of Education" and

"An Act respecting Public Schools."

I have, &c.,

JOHN SCHULTZ.

The Honourable the Secretary of State, Ottawa.

To His Excellency the Governor General in Council:—

The Petition of the Catholic Section of the Board of Education in and for the Province of Manitoba, doth hereby most respectfully represent; That

Whereas previous to and at the time of the union there existed by practice in the territory, which now forms the Province of Manitoba, a system of denominational schools.

Whereas the maintenance of such system was made a condition of the union by clause 7 of the Bill of Rights upon which such union was negotiated.

Whereas, thereafter the Legislature of the Province of Manitoba has established a system of denominational schools which has been in existence since the union up to this year without being questioned or complained of.

Whereas the existence of such a system of denominational schools by practice previous to and at the time of the union, and by law since the union, has created rights and privileges in matter of education to Catholic and Protestant denominations alike.

Whereas a part of the protection afforded to all by clause 93 of the British North America Act, 1867, it has been enacted by clause xxii of the Manitoba Act, that :

“XXII. In and for the Province, the said Legislature may exclusively make laws in relation to education, subject and according to the following provisions :

“(1) Nothing in any such law shall prejudicially affect any right or privilege with respect to denominational schools which any class of persons have by law or practice in the province at the Union.

“(2) An appeal shall lie to the Governor General in Council from any act or decision of the Legislature of the province, or of any provincial authority affecting any right or privilege of the Protestant or Roman Catholic minority of the Queen's subjects in relation to education ;”

Whereas two bills respectively intituled “An Act respecting the Department of Education.” “An Act respecting Public Schools,” have been adopted by the Legislature of the Province of Manitoba, at the session closed on the 31st day of March, A.D. 1890, and whereas such legislation has prejudicially affected the rights and privileges of the Catholic minority of this Province with respect to Catholic schools, inasmuch as by said Acts the said Catholic schools of this Province are wiped out.

The Catholic section of the Board of Education in and for the Province of Manitoba, most respectfully and earnestly pray His Excellency the Governor General in Council, that said last mentioned Acts be disallowed to all intents and purposes, and your petitioners will ever pray.

ALEX., Archbishop of St. Boniface, O.M.I.,
President of the Catholic Section of Board of Education.

T. A. BERNIER,
Department of Education for the Catholic Section.

WINNIPEG, 7th day of April, 1890.

OTTAWA, 26th April, 1890.

The undersigned, respectively Members of the Senate and House of Commons of Canada, fully endorse the contents of the present memorial, and earnestly join in the prayer therein contained.

A. A. LARIVIÈRE, *M.P. for Provencher, Man.*

M. A. GIRARD, Senator.

No. 4.

GOVERNMENT HOUSE, WINNIPEG, March 31st, 1890.

SIR,—I have the honour to transmit herewith, copies of certain representations made to me by Honourable James E. P. Prendergast, M.P.P. for Woodlands, on behalf of the present M.P.P.'s for Carillon, Cartier, LaVerandrye, Morris, St. Boniface, and himself, regarding certain Bills, viz. :—

“An Act to provide that the English language shall be the official language of the Province of Manitoba”; “An Act respecting Public Schools”; and “An Act respecting the Department of Education,” passed during the Third Session of the Seventh Provincial Legislature, to which assent was given this day by me.

I have, etc.,

JOHN SCHULTZ, *Lieutenant-Governor.*

The Honourable the Secretary of State, Ottawa.

WINNIPEG, 27th March, 1890.

SIR,—On behalf of the honourable members for Carillon, Cartier, La Verandrye, Morris, and St. Boniface, and of myself, I beg leave to respectfully represent to Your Honour that the Legislative Assembly, at this present Session, being the third of the Seventh Legislature, has passed a Bill intituled, "An Act to provide that the English language shall be the official language of the Province of Manitoba," and to most humbly submit that the said Bill is *ultra vires*, for reasons more fully set forth in the memorandum hereto annexed.

I have the honour to be, sir, your most humble servant,

JAMES E. P. PRENDERGAST, *Member for Woodlands.*

To His Honour the Honourable JOHN SCHULTZ, Lieutenant Governor of Manitoba, etc., etc., etc., Government House, Winnipeg.

MEMORANDUM respecting a Bill, intituled, "An Act to provide that the English language shall be the official language of the Province of Manitoba."

It is submitted that Section 133 of "The British North America Act, 1867," which applies to the Parliament of Canada and the Legislature of Quebec, is similar to, and drafted in the same words (*mutatis mutandis*) as clause 23 of "The Manitoba Act applying to the Legislature of Manitoba, and that any interpretation attaching to the former should also attach to the latter."

The British North America Act, 1867. Section 133 of the above Act reads as follows:—

"Either the English or the French language may be used by any person in the debates of the House of Parliament of Canada and of the House of the Legislature of Quebec, and both these languages shall be used in the respective records or journals of those Houses, and either of those languages may be used by any person in any pleading or process. The Acts of the Parliament of Canada and of the Legislature of Quebec shall be printed and published in both languages."

The spirit which has presided to the enacting of the above clause is fully illustrated by the reports of the debate on Confederation.

Honourable Mr. Evanturel (page 943), says: "I wish to put a question to the Government. I acknowledge that if I confined myself to consulting my own ideas I should not put this question, but I do so in order to meet the wishes of several of my friends, both within this House and beyond its precincts. Those friends have expressed alarm in relation to one of the clauses of the resolutions, and have requested me to ask an explanation from the Honourable Attorney-General for Upper Canada as to the interpretation of that clause. I have therefore to ask him whether article 46 of the resolutions, which states that both the English and French language may be employed in the general Parliament and its proceedings, and in the local Legislature of Lower Canada is to be interpreted: "As placing the use of the two languages on an equal footing" in the Federal Parliament? In stating the apprehensions entertained by certain persons on this subject, I hope the Government will not impute to me any hostile intention, and will perceive that the course I adopt is to their interest, as it will give them an opportunity of dissipating the apprehensions in question." (Hear, hear.)

Honourable Attorney-General Macdonald answers as follows:—

"I have very great pleasure in answering the question put to me by my honourable friend for the County of Quebec. I may state that the meaning of one of the resolutions adopted by the Conference is this: That the right of the French Canadian members as to the status of their language, in the Federal Legislature, should be "precisely the same as they now are in the Provincial Legislature of Canada in every possible respect." I have still further pleasure in stating that the moment this was mentioned in Conference, the members of the deputation from the Lower Provinces unanimously stated that it was right and just, and without one dissentient voice gave their adhesion to the reasonableness of the proposition, that the status of the French language as regards "the procedure in Parliament, the printing of

measures and everything of that kind," should precisely be the same as it is in this Legislature."

It is admitted that the only thing promised after all in the above by the Honourable the Attorney General for Upper Canada is that the French language would be placed in the Federal Parliament on the same footing it occupied *then*, that is, under the "Union Act."

It must be equally admitted that under the "Union Act," as originally drafted, the English language alone could be used in Parliament, and that whilst, by 11 and 12 Vic. (Imperial), the two languages were subsequently put on a par, yet, there was nothing in this amending Act making its object indefeasible, that is to say, that the use of the French language, although introduced was yet left, as to its own continuance, to the will of the majority.

Having those facts in mind, the above declarations of the Attorney General for Upper Canada were not considered sufficient, and at the next page of the Debates, Hon. (now Sir) A. A. Dorion is reported as saying:

"If to-morrow the Legislature chooses to vote that no other but the English language should be used in our proceedings, it might do so, and thereby forbid the use of the French language. There is, therefore, no guarantee for the continuance of the use of the language of the majority of the people of Lower Canada, but the will and forbearance of the majority of Parliament." To which the Hon. Mr. Macdonald replies: "I desire to say that I agree with my honourable friend that, as it stands just now, the majority governs, but *in order to cure this* it was agreed at the Conference to embody the provision in the Imperial Act. This is proposed by the Canadian Government for fear an accident might arise subsequently, and it was assented to by the deputation for each Province that the use of the French language should form *one of the principles upon which the Confederation would be established*, and that its use as at present should be guaranteed by the Imperial Act."

To the above declarations, affecting more the Federal Parliament, Honourable Attorney-General Cartier adds further declarations affecting the Province of Quebec, at the same page of the Debates. He is reported as saying:—

"I will add that it was also necessary to protect the English minority in Lower Canada with respect to the use of their language. The members of the Conference were desirous that *it should not be in the power of the majority to decree the abolition of the English language in the Local Legislature of Lower Canada, any more than it will be in the power of the Federal Legislature to do so with respect to the use of the French language.*"

It is submitted that the following conclusions may legitimately be drawn from the above.

(1) That the official use of their language was solemnly guaranteed to the English-speaking minority of the Province of Quebec in the Local Legislature.

(2) That this guarantee was an indefeasible one, or (in the words of Hon. Mr. Cartier) "That it would not be in the power of the majority to decree the abolition of the English language."

(3) That this privilege of the minority should not be interpreted in its narrowest sense, but (in the words of Mr. Evanturel) as placing the use of the two languages on an "equal footing," or, again, (in the words of Hon. Mr. Macdonald) "as applying to the procedure in Parliament," the printing of "measures and everything of that kind," that all the phrases in the said section of the B. N. A. Act, 1867, having as joint subjects the Federal Parliament and the Legislature of Quebec, all the declarations quoted as to the former must necessarily apply to the latter and *vice versa*.

Amendments to Provincial Constitutions.

In case it should be contended that the Legislature of Quebec has power to decree the abolition of the official use of the English language, by virtue of sub-clause one of clause 92 of the B. N. A. Act, 1867, it is respectfully submitted that the words "the Constitution of the Province," used in the said sub-clause, apply

only to such matters as are mentioned and provided for in Division five (v) of the said Act, headed "V.—*Provincial Constitutions*." "And that the dual language claim being not contained in the said division, it is beyond the power of the Legislature of Quebec to amend it."

The Manitoba Act.

It is respectfully submitted that inasmuch as clause xxiii of the Manitoba Act is an absolute reproduction (*mutatis mutandis*) of clause 133 of the B. N. A. Act, 1867, the standing of the French language in Manitoba is the same as that of the English language in Quebec, and that all privileges and disabilities in connection with the latter are privileges and disabilities in connection with the former.

The B. N. A. Act, 1871.

It is further respectfully submitted that even had the Legislature of Quebec power to repeal the dual language clause of the B. N. A. Act, 1867, the Legislature of Manitoba is stopped from altering the provisions of the Manitoba Act, by 34 of 35 Vic., Cap. 28 (Imperial), also known as "The B. N. A. Act, 1871," section 6 of which reads as follows: "Except as provided by the third section of this Act, it shall not be competent for the Parliament of Canada to alter the provisions of the last mentioned Act (The Manitoba Act), subject always to the right of the Legislature of the Province of Manitoba to alter from time to time the provisions of any law respecting the certification of *electors and members of the Legislative Assembly, and to make laws respecting elections in the said Province.*"

A Precedent.

It is further respectfully submitted, that in 1879, Hon. Mr., now Judge, Walker, then Attorney General of Manitoba, introduced in the Legislature a bill to abolish the printing in French of all public documents except the Statutes. The journals of that year show that the said Bill was read a first, second and third time, but the Schedule of Acts assented to at the close of the session shows that said Bill is not therein included, and that it was not sanctioned.

Humbly submitted,

JAMES E. P. PRENDERGAST, *M. P. P. for Woodlands.*

LEGISLATIVE ASSEMBLY OF THE PROVINCE OF MANITOBA,
WINNIPEG, 28th March, 1890.

SIR,—On behalf of the members for Carillon, Cartier, La Verandrye, Morris and St. Boniface, as well as in my own name, I beg to represent respectfully to your Honour, that the Legislative Assembly has passed during its present session, amongst others, two bills, respectively intituled "An Act respecting the Department of Education" and "An Act respecting Public Schools," and to submit most humbly that the said Bills are *ultra vires* for reasons more fully set forth in the memorandum herewith enclosed.

I have the honour to be, sir, your most respectful servant,

JAMES E. P. PRENDERGAST, *M. P. P. for Woodlands.*

His Honour the Hon. JOHN SCHULTZ,

Lieut. Governor, etc., etc., Government House, Winnipeg.

Memorandum, respecting a Bill intituled: "An Act respecting the Department of Education" and a Bill intituled: "An Act respecting Public Schools."

It is respectfully submitted that the Bills above mentioned are and constitute a gross and direct violation of the rights and privileges guaranteed to the Roman

Catholic minority of Her Majesty's subjects in the Province of Manitoba by section 93 of "The British North America Act, 1867" and section 22 of "The Manitoba Act." It is submitted that the first sub-clause of said section 22 of "The Manitoba Act" recognizes the *law of practice* followed prior to Union, as a source of indefeasible rights and privileges with respect to denominational schools. By the practice followed, the Roman Catholic denomination and in fact all the religious denominations known in the country, then enjoyed the following privileges:—

(1) They each had their denominational schools, there being in fact then no other schools than denominational schools in the country. (2) Each denomination (whether by their clergy, laymen, or otherwise) had the privilege of determining the curriculum of the course of studies to be followed in their respective schools so that the convictions and consciences of the parents were not violated by their children. (3) The practice, the general practice, was that each denomination supported its own schools.

The above practice is perfectly supported and illustrated by letters from the respective Boards of the Roman Catholic, Episcopalian, and Presbyterian denominations, as reproduced in Mr. H. T. Hind's report of the Red River Expedition, in the chapter concerning education. Whilst recognizing the supreme right of the Legislative Assembly of voting aids and subsidies, it is further submitted that prior to Union, the only monies spent for public purposes and which could in any sense be considered as public monies, were those of the Honourable Hudson Bay Company, and that it was the practice for said Company to grant yearly certain sums to the three denominations named, for their mission work, a most important part of which was their educational work. It is respectfully submitted that the said Bill respecting the Department of Education is, considered in its whole and more particularly by sections, determining the powers of, and creating the Department of Education and the Advisory Board, in violation of the rights and privileges above mentioned, and so for the said Bill respecting Public Schools, particularly by sections six, seven and eight; and by chapters headed "Compulsory Education" and "Penalties and Prohibitions" and "School Assessment." It is further respectfully submitted that by sub-clause 3 of clause 93 of "The British North America Act, 1867," and by sub-clause 2 of clause 22 of "The Manitoba Act," all Acts passed after the Union authorizing separate or denominational schools, are also recognized as a source of indefeasible rights and privileges.

That the said Bills passed during the present Session are also in this respect in violation of such rights and privileges, is evident from the fact that the said Bills expressly upset the "Manitoba School Act" now in force, and the denominational schools established thereunder, and substitute in lieu of the latter non-sectarian public common schools.

All of which is most respectfully submitted.

JAMES E. P. PRENDERGAST, M.P.P. for Woodlands.

No. 5.

WINNIPEG, April 14, 1890.

SIR,—I have the honour to transmit to you herewith enclosed, for consideration by His Excellency the Governor-General in Council, the Memorial of certain members of the Legislative Assembly of the Province of Manitoba, concerning two Acts respectively intituled "An Act respecting the Department of Education" and "An Act respecting Public Schools," passed by the Seventh Legislature of the said Province at their Third and now last Session.

I have the honour to be, sir, your most obedient servant,

JAMES E. P. PRENDERGAST,

A Member of the Legislative Assembly of the Province of Manitoba.

To the Honourable the Secretary of State for Canada.

To the Right Honourable Sir Frederick Arthur Stanley, Baron Stanley of Preston, in the County of Lancaster, in the Peerage of Great Britain, Knight Grand Cross of the Most Honourable Order of the Bath, Governor General of Canada, &c., &c., &c.

MAY IT PLEASE YOUR EXCELLENCY:

The petition of the undersigned dutiful subjects of Her Most Gracious Majesty and Members of the Legislative Assembly of the Province of Manitoba, most humbly sheweth:—

That the seventh Legislature of the Province of Manitoba, in its third Session which opened on the thirtieth day of January, A.D. 1890, and prorogued on the thirty-first day of March of the same year, has passed, amongst others, two Acts respectively intituled "An Act respecting the Department of Education," a copy of which is shown in Appendix "A" hereto attached, and "An Act respecting Public Schools," a copy of which is shown in Appendix "B" also hereto attached.

That the said Act intituled "An Act respecting the Department of Education," although passed by the said Legislature as aforesaid, did not receive the approval of any of the members (whether of the Roman Catholic or Protestant persuasion) belonging to Her Majesty's Loyal Opposition in the said Legislative Assembly, as shown by a copy of the Journals of the House contained in Appendix "C" hereto attached, but, on the contrary, received the reproof of all the members of Her Majesty's said Loyal Opposition, except that of Mr. Lagimodiere, a Roman Catholic and member for La Verandrye, who was detained from his parliamentary duties through serious illness prevailing in his family. And that the said Act intituled "An Act respecting Public Schools," although passed by the said Legislative Assembly as aforesaid, did not receive the approval of any of the members (whether of the Roman Catholic or Protestant persuasion) belonging to Her Majesty's Loyal Opposition in the said Legislative Assembly, but, on the contrary, received the reproof of all of the said members, as again shown by the copy of the Journals of the House contained in Appendix "C" hereto attached.

That the said Bills violate the sacred and constant rights of Her Majesty's Roman Catholic subjects of the Province of Manitoba, in relation to education; and that, for reasons more fully set forth in Appendix "D" hereto attached, the said Bills are *ultra vires*, and have been passed in defiance of the Imperial Parliament under whose sanction the British North America Act, 1867, and the British North America Act, 1871 (34-35 Vic., chap. 28), were enacted.

Your Petitioners, therefore, humbly pray that Your Excellency may be pleased to take such action and grant such relief and remedy as to Your Excellency may seem meet and just.

And Your Petitioners, as in duty bound, shall ever pray.

THOMAS GELLEY, M.P.P. for Cartier.
 WM. LAGINODIERE, M.P.P. for La Verandrye.
 ERNEST J. WOOD, M.P.P. for Cypress.
 ROVER MARION, M.P.P. for St. Boniface.
 JAMES PRENDERGAST, M.P.P. for Woodlands.
 R. E. O'MALLEY, M.P.P. for Lorne.
 MARTIN JEROME, M.P.P. for Carillon.
 A. F. MARTIN, M.P.P. for Morris.

WINNIPEG, 14th April, 1890.

The undersigned, respectively members of the Senate and House of Commons of Canada, fully endorse the contents of the present memorial, and earnestly join in the prayer therein contained.

A. A. LARIVIERE, M.P. for Provencher.
 M. A. GIRARD, Senator.

APPENDIX "A."

No.....

B I L L .

1890.

An Act respecting the Department of Education.

[Assented to 31st March, 1890.]

Department established. Sec. 1.
 Powers and duties of Department. Sec. 2.
 One member to sign certificates. Sec. 3.
 Advisory Board. Sec. 4.
 Mode of appointment and election. Secs. 5 to 13.
 Powers of Advisory Board. Sec. 14.
 Annual report by Department of Education. Sec. 15.
 Orders and regulations to be laid before the Legislature. Sec. 16.
 Appointing officers. Sec. 17.
 Boards of Education to cease to hold office, etc. Sec. 18.
 Act takes effect. Sec. 19.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Manitoba, enacts as follows :

Department established.

1. There shall be a Department of Education, which shall consist of the Executive Council, or a committee thereof appointed by the Lieutenant-Governor-in-Council. R.S.O., c. 224, s. 1.

Powers of Department of Education. Appointing Inspectors and other officers. Fixing salaries.

2. The Department of Education shall have power :

(a) To appoint inspectors of High and Public Schools, teachers in Provincial Model and Normal Schools, and Directors of Teachers' Institutes ;

(b) To fix the salaries of all inspectors, examiners, Normal and Model school teachers and other officials of the Department ;

Prescribing forms.

(c) To prescribe forms for school registers and reports to the Department ;

Providing Model and Normal schools.

(d) To provide for Provincial Model and Normal schools. 44 Vic., c. 4, s. 5 ; R.S.O., c. 224, s. 4 ;

Conducting examinations of teachers.

(e) To arrange for the proper examination and grading of teachers and the granting and cancelling of certificates. Certificates obtained outside the Province may be recognized instead of an examination.

Prescribing length of vacations, etc.

(f) To prescribe the length of vacations and the number of teaching days in the year.

One member of Department to sign certificates.

3. The Department of Education shall nominate one of its members to sign all certificates granted by the Department.

Advisory Board.

4. There shall be a Board constituted as hereinafter provided, to be known as "The Advisory Board."

Constitution of Board.

5. Said Board shall consist of seven members. Three members shall constitute a quorum for the transaction of business.

Quorum. Four members to be appointed.

6. Four of the members of said Advisory Board shall be appointed by the Department of Education for a term of two years. Provided, that on the occasion of the first appointment the term of office of two of such members so appointed shall be one year.

Public school teachers to elect two members.

7—(1) Two of the members of the said Advisory Board shall be elected by the Public and High school teachers actually engaged in teaching in the Province.

(2) The Department of Education shall, from time to time, divide the Province into two districts, so that the said teachers in each district may elect one member of said Board. Province to be divided into two districts for purposes of such election.

8. On or before the first day of June in each year, the Department of Education shall furnish each High and Public School teacher actually engaged in teaching with a blank form of voting paper for the purpose of voting for a member of said Board. Voting papers to be furnished.

9. Such voting papers shall be sent to one of the appointed members of said Board. Voting papers to be sent to appointed member.

10. The appointed members of the said Board shall receive and count the voting papers, and decide any questions relating thereto, and shall report to the Department of Education the names of the persons elected. Appointed members to count votes.

11. Voting papers received after the thirtieth day of June shall not be counted. The person receiving the highest number of votes, in each case, shall be elected. Voting papers must be in by 30th June.

12. The term of office of such members so elected shall be two years, and shall commence on the first day of August next after election. Term of office.

13. The seventh member of said Board shall be appointed by the University Council, by ballot, from time to time, for a term of two years. University Council to appoint one member.

14. Said Advisory Board shall have power: Powers of Advisory Board.

(a.) To make regulations for the dimensions, equipment, style, plan, furnishing, decoration and ventilation of school houses, and for the arrangement and requisites of school premises; Equipment and ventilation of school-houses.

(b.) To examine and authorize text-books and books of reference, for the use of pupils and school libraries; Authorize text-books.

(c.) To determine the qualifications of teachers and inspectors for High and Public Schools; Qualification of teachers and inspectors.

(d.) To determine the standard to be obtained by pupils for admission to High Schools; Admission to High Schools.

(e.) To decide or make suggestions concerning such matters as may, from time to time, be referred to them by the Department of Education; Decide matters referred.

(f.) To appoint examiners for the purpose of preparing examination papers for teachers' certificates and for entrance admission of pupils to High Schools, who shall report to the Department of Education; Appointing examiners.

(g.) To prescribe the forms of religious exercises to be used in schools; Forms of religious exercises.

(h.) To make regulations for the classification, organization, discipline and government of Normal, Model, High and Public Schools. 44 Vic., c. 4, s. 5; R. S. O., c. 224, s. 4. Regulations for Normal, Model, High and Public Schools.

(i.) To determine to whom certificates shall issue; To determine to whom certificates shall issue, etc.

(j.) To decide upon all disputes and complaints laid before them, the settlement of which is not otherwise provided for by law. To settle disputes, settlement of which not otherwise provided for.

15. The Department of Education shall report annually to the Lieutenant Governor in Council upon the Model, Normal, High and Public Schools, with such statements and suggestions for promoting education generally as may be deemed useful and expedient. R. S. O., c. 224, s. 5. Annual report to be made by Department of Education.

16—(1.) Every regulation or Order-in-Council made under this Act, or under the Public and High Schools Acts, by the Executive Regulations and Orders-in-

Council to be laid before Legislative Assembly.

Council, the Department of Education and the Advisory Board, shall be laid before the Legislative Assembly forthwith if the Legislature is in session at the date of such regulation or Order-in-Council, and if the Legislature is not in session such regulation or Order-in-Council shall be laid before the said House within the first seven days of the session next after such regulation or Order-in-Council is made.

Regulation or order disapproved of by Legislative Assembly to be void.

(2.) In case the Legislative Assembly at the said session, or if the session does not continue for three weeks after the said regulation or Order-in-Council is laid before the House, then at the ensuing session of the Legislature, disapproves by resolution of such regulation or Order-in-Council, either wholly or of any part thereof, the regulation or Order-in-Council, so far as disapproved of, shall have no effect from the time of such resolution being passed. R. S. O., c. 224, s. 7.

Appointing officers, etc.

17. The Department of Education may appoint such officers, clerks and servants as may be necessary for the conduct of the business of the Department and of the Advisory Board.

Boards of Education, etc to cease to hold office after 1st May, 1890.

18. From and after the first day of May, A.D. 1890, the Board of Education and Superintendents of Education appointed under Chapter 4 of 44 Victoria and amendments, shall cease to hold office, and within three days after said first day of May, said Boards and Superintendents shall deliver over to the Provincial Secretary all records, books, papers, documents and property of every kind belonging to said Boards.

When Act shall come into force.

19. This Act shall come into force on the first day of May, A.D. 1890.

I, Armand Henry Corell, Deputy of Elias George Conklin, Esq., Clerk of the Legislative Assembly and Custodian of the Statutes of the Province of Manitoba, certify the subjoined to be a true copy of the original enactment passed by the Legislative Assembly of Manitoba in the third Session of the seventh Legislature, held in the fifty-third year of Her Majesty's reign, and assented to in the Queen's name by His Honour the Lieutenant-Governor on Monday, the thirty-first day of March, A.D. 1890.

Given under my hand and the seal of the Legislative Assembly of Manitoba, at Winnipeg, this third day of April, in the year of Our Lord one thousand eight hundred and ninety.

A. H. CORELL,

Deputy Clerk, Legislative Assembly, Manitoba.

APPENDIX B.

No. 13.

BILL.

1890.

An Act Respecting Public Schools.

[Assented to 31st March, 1890.]

Short title. Sec. 1.

Interpretation. Sec. 2.

Existing arrangements continued. Secs. 3, 4.

Public schools to be free. Sec. 5.

School Age. Sec. 5.

Religious exercises, Secs. 6, 7, 8.

Rural public schools:—

New school districts. Sec. 9.

Trustees' term of office and qualification. Secs. 10, 11, 12.

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- Electors for rural school districts. Sec. 13.
 Election of trustees. Secs. 14-22.
 Corporation not to cease for want of trustees. Sec. 23.
 Posting of notices of annual meeting in new sections. Sec. 24.
 Declaration of office by trustee. Sec. 25.
 Minutes of meeting to be sent to inspector. Sec. 26.
 Complaints as to elections. Sec. 27 (1).
 Proceedings not invalidated through illegally elected trustee
 having acted. Sec. 27 (2).
 Secretary-treasurer. Secs. 28, 29.
 Notices of meetings. Sec. 30.
 Requisites of valid corporate acts. Sec. 31.
 Statement to be prepared by secretary-treasurer. Sec. 32.
 Remuneration of secretary-treasurer. Sec. 33.
 Auditors. Secs. 34-36.
 Duties of trustees. Sec. 37.
 Districts in unorganized territories. Secs. 38-51.
 Rural school sites. Secs. 52-67.
 Alteration of school boundaries. Secs. 68-71.
 Formation and dissolution of union school districts composed of parts
 of several municipalities. Secs. 72-77.
 Public school boards in cities, towns and villages :—
 Election of trustees. Secs. 78-85.
 Duties of board. Sec. 86.
 School census. Secs. 87, 88.
 Assessment for schools. Secs. 89-97.
 Borrowing money and issuing debentures for school purposes. Secs.
 98-107.
 Legislative grant. Secs. 108-110.
 School corporations—their names—change of names, etc. Sec. 111.
 Disqualification of school trustees. Secs. 112, 113.
 Meetings of boards of school trustees. Secs. 114-120.
 Liability for school moneys. Secs. 121-124.
 Teachers :—
 Agreements with. Sec. 125.
 Qualification. Sec. 126.
 Duties. Sec. 127.
 Salary. Secs. 128-130.
 Certificates of qualification. Sec. 131.
 Suspension of certificate. Secs. 132-134.
 Inspectors. Secs. 135-137.
 Allowance to arbitrators. Sec. 138.
 Non-resident pupils. Sec. 139.
 Holidays. Sec. 140.
 Authorized books. Secs. 141-143.
 Libraries. Sec. 144.
 Special inquiries. Secs. 145, 146.
 Visitors. Secs. 147-150.
 Penalties and prohibitions. Secs. 151-173.
 Trustees resigning. Sec. 174.
 Execution against school districts. Sec. 175.
 General prohibitions. Sec. 176.
 Recovery of penalties. Sec. 177.
 Provisions as to Catholic school districts. Secs. 178-181.
 Repeal clause. Sec. 182.
 When Act to come into force. Sec. 183.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Manitoba, enacts as follows :

PRELIMINARY.

- Short title. 1. This Act may be cited as "The Public Schools Act." R. S. O., c. 225, s. 1.
- Interpretation. 2. Where the words following occur in this Act, they shall be construed in the manner hereinafter mentioned, unless a contrary intention appears:
 - "Teacher." (1) "Teacher" shall include female as well as male teachers.
 - "School site." (2) "School site" shall mean such area of land as may be necessary for the school building, teacher's residence, offices and play-grounds connected therewith.
 - "Owner." (3) "Owner" shall include a mortgagee, lessee or tenant, or other person entitled to a limited interest, and whose claims may be dealt with by arbitration as herein provided.
 - "Resident." (4) "Resident" shall include such persons who, though not actually resident in a school district, pay a school rate at least equal to the average school rate paid by the actual residents of such district.
 - "Ratepayer." (5) "Ratepayer" shall mean an assessed householder, owner or tenant, or any person entered on the assessment roll as a farmer's son.
 - "Inspector." (6) "Inspector" shall mean the school inspector for the territory in which the school district is situate. R.S.O., c. 225, s. 2.
 - Rural School District. (7) "Rural School District" shall mean a school district situate wholly in a rural municipality or rural municipalities.
- Existing school arrangements continued. 3. All Protestant and Catholic school districts, together with all elections and appointments to office, all agreements, contracts, assessments and rate bills, heretofore duly made in relation to Protestant or Catholic schools, and existing when this Act comes into force, shall be subject to the provisions of this Act. R. S. O., c. 225, s. 4.
- Trustees' term of office. 4. The term for which each school trustee holds office at the time this Act takes effect shall continue as if such term had been created by virtue of an election under this Act. R. S. O., c. 225, s. 5.

PUBLIC SCHOOLS TO BE FREE.

- Public Schools to be free. 5. All Public Schools shall be free schools, and every person in rural municipalities between the age of five and sixteen years, and in cities, towns and villages between the age of six and sixteen, shall have the right to attend some school. R. S. O., c. 225, s. 6.

RELIGIOUS EXERCISES.

- Religious exercises. 6. Religious exercises in the Public Schools shall be conducted according to the regulations of the Advisory Board. The time for such religious exercises shall be just before the closing hour in the afternoon. In case the parent or guardian of any pupil notifies the teacher that he does not wish such pupil to attend such religious exercises, then such pupil shall be dismissed before such religious exercises take place.
- Conscience clause. 7. Religious exercises shall be held in a Public School entirely at the option of the school trustees for the district, and upon receiving written authority from the trustee, it shall be the duty of the teachers to hold such religious exercises.
- School trustees to have option as to religious exercises. 8. The Public Schools shall be entirely non-sectarian, and no religious exercises shall be allowed therein except as above provided.
- Schools must be non-sectarian.

NEW SCHOOL DISTRICTS.

- New school districts. 9. The council of each rural municipality shall form portions of the municipality where no schools have been established into school districts.

Provided, no school district shall be so formed unless there shall be at least ten children of school age living within the same, and none distant more than three miles by the most direct road from the site for the school house. Provided, that no school district shall include more territory than twenty square miles, exclusive of public roads. There shall be an appeal from the action of the council in so forming school districts in the manner provided in section 69. R. S. O., c. 225, s. 9; 47 Vic., c. 37, s. 3; 48 Vic., c. 27, s. 4.

SCHOOL TRUSTEES FOR RURAL DISTRICTS.

10. For each rural school district there shall be three trustees, each of whom, after the first election of trustees, shall hold office for three years, and until his successor has been elected. R. S. O., c. 225, s. 12. Trustees' term of office.

11. The trustees elected at a first school meeting in a rural school district shall respectively continue in office as follows: Term of office of each Trustee.

(1) The first person elected shall continue in office for two years, to be reckoned from the annual school meeting next after his election, and thence until his successor has been elected; First.

(2) The second person elected shall continue in office for one year, to be reckoned from the same period, and until his successor has been elected; Second.

(3) The third or last person elected shall continue in office until the next ensuing annual school meeting in such district, and until his successor has been elected; Third.

(4) In case of a poll being taken for one or more trustees at a first school meeting, then the trustees shall rank in seniority according to the number of votes polled, and, in case of a tie, then in the order of their nomination. R. S. O., c. 225, s. 30; 44 Vic., c. 4, s. 18. Ranking of trustees.

12. The persons qualified to be elected trustees shall be such persons as are actual resident ratepayers within the school district, rated on the last revised assessment roll of the municipality, or one of the municipalities in which the school district is situate, and of the full age of twenty-one years, able to read and write, and not disqualified under this Act. R. S. O., c. 225, s. 13. Trustees, qualification of. ...

ELECTORS FOR RURAL SCHOOL DISTRICTS.

13. In rural school districts every ratepayer of the full age of twenty-one years, rated on the last revised assessment roll of the municipality, or one of the municipalities in which the school district is situate, shall be entitled to vote at any election for school trustee or on any question whatsoever, at any annual or special meeting in the district except as is herein otherwise provided. R. S. O., c. 225, s. 14; 47 Vic., c. 37, s. 7; 48 Vic., c. 27, s. 6. Electors in rural school districts. 1

ANNUAL SCHOOL MEETINGS IN RURAL DISTRICTS.

14. On the first Monday in December in each year (provided the day is not a statutory holiday, in which case then on the following Wednesday) a meeting of the ratepayers of each rural school district shall be held, commencing at ten o'clock in the forenoon, for the purpose (among other things) of electing a school trustee or trustees. Notice of such meeting shall be given by the trustees (except as is herein otherwise provided) by notice posted on the school house, if there be one, and in one other public place in the district at least two weeks before such day. R. S. O., c. 225, s. 15; 44 Vic., c. 4, s. 16; 47 Vic., c. 37, s. 5. Annual school meeting.

Meetings to be called in default of first or annual meetings.

15. In case, from the want of proper notice or other cause, any first or annual school meeting, required to be held for the election of trustees, was not held at the proper time, the inspector, or any two ratepayers in the district, may call a school meeting, by giving six days' notice, to be posted in at least three of the most public places in the school district; and the meeting thus called shall possess all the powers and perform all the duties of the meeting in the place of which it is called. R. S. O., c. 225, s. 16; 44 Vic., c. 4, s. 21; 47 Vic., c. 37, s. 6.

Order of business.

16—(1) The electors of such school district present at such meetings shall elect one of their own number to preside over its proceedings, and shall also appoint a secretary, who shall record the proceedings of the meeting, and perform such other duties as may be required of him by this Act.

(2) The business of such meeting may be conducted in the following order:—

(a) Receiving the annual report of the trustees, and disposing of the same;

(b) Receiving the annual report of the auditor or auditors, and disposing of the same;

(c) Electing an auditor for the current year;

(d) Miscellaneous business;

(e) Electing a trustee or trustees to fill any vacancy or vacancies. R. S. O., c. 225, s. 17; 44 Vic., c. 4, s. 17; 47 Vic., c. 37, s. 5.

Proceedings at election of School Trustee.

17. The election of trustees shall proceed by way of nomination, each nomination requiring a mover and seconder, both of whom must be present and qualified electors. Nominations shall be kept open until eleven o'clock in the forenoon. In case, at the said hour of eleven o'clock, the number of nominations does not exceed the number of vacancies to be filled, then the chairman shall declare the person or persons so nominated to be elected. In case the number of nominations exceed the number of vacancies to be filled, a show of hands shall be taken, and the person or persons having the majority of votes shall be declared elected by the chairman, should no ratepayer demand a poll. If a poll is demanded by a ratepayer present, the chairman shall be the returning officer, and shall open the poll forthwith. The secretary shall record the votes given. The poll shall be closed at four o'clock in the afternoon. Provided, that if at any time one hour elapse during such poll without a vote having been recorded, the poll shall then be closed. After the poll is closed the chairman shall declare the person or persons receiving the highest number of votes elected. R. S. O., c. 225, ss. 19, 20-22.

Chairman, duties of.

18. The chairman shall preside and submit all motions to the meeting in the manner desired by the majority. In case of an equality of votes, he shall give the casting vote, but no other vote. He shall decide all questions of order, subject to an appeal to the meeting. R. S. O., c. 225, s. 18.

When voter is objected to.

19. In case an objection is made to the right of any person to vote at any annual or special meeting, either for trustee or upon any school question, the chairman of the meeting, or other officer presiding, shall require the person whose right of voting is objected to, to make the following declaration:

Declaration.

(1) I, A. B., do declare that I am an assessed ratepayer (or farmer's son, as the case may be) in school district

(2) That I am of the full age of 21 years.

(3) That I have the right to vote at this election.

Whereupon the person making such declaration shall be entitled to vote, except as is herein otherwise provided. R. S. O., c. 225, s. 2.

20. Any public school question raised at such annual meeting, or any special meeting, may be submitted to vote and a poll demanded. In case of a poll being demanded, the proceedings shall be similar to those above provided for election of trustee. Public School questions to be decided at meetings.

21. The secretary of every school meeting at which any person or persons were elected as school trustees, shall forthwith notify in writing each of such persons of his election, and every person so notified shall be considered as having accepted such office, unless a notice to the contrary effect has been delivered by him to such secretary within twenty days after the date of such election. R. S. O., c. 225, s. 23. Acceptance of office by Trustees.

22. Any trustee elected to fill a vacancy shall hold office only for the unexpired term of the person in whose place he has been elected. R. S. O., c. 225, s. 24. Term for vacancies.

23—(1) No school corporation shall cease to exist by reason of the want of trustees, but in case of such want any two ratepayers of the district, or the inspector, may, by giving six days' notice, to be posted in at least three of the most public places of the district, call a meeting of the ratepayers, who shall proceed to elect three trustees in the manner prescribed in Section 17 and the following sections of this Act; and the trustees thus elected shall hold and retire from office in the manner prescribed by Section 11 of this Act. Corporation not to cease by want of Trustees.

(2) When the ratepayers of any school district for two years neglect or refuse to elect trustees, after being duly notified as herein provided, the council of the municipality may appoint trustees for the said school district, who shall hold office for the same term as if elected by the ratepayers. R. S. O., c. 225, s. 27. Tenure of office.

24. In case of the formation of a new school district, the clerk of the municipality shall see that the notices for the annual meeting are posted up. R. S. O., c. 225, ss. 28 and 29. When Municipal Council may appoint Trustees.

25. Every trustee, before acting as such, shall make, before the chairman of the Board, or before a justice of the peace, the following declaration in writing, which he shall deposit with the secretary-treasurer: New district. Posting notices.

I, A. B., do solemnly declare that I will truly, faithfully, and to the best of my ability and judgment, discharge the duties of the office of school trustee for the school district of No. to which I have been elected. Declaration of office.

Dated at this day

of A. D. 18
 Declared before me }
 at this }
 day of A.D. 18 }
 C. D., }
 Chairman of Board, }
 or J. P. }

A. B.

—46 and 47 Vic., c. 46, s. 10.

26. A correct copy of the minutes of a first, and of every annual and of every special school meeting, signed by the chairman and secretary, shall be forthwith transmitted by the chairman of the meeting to the inspector. R. S. O., c. 225, s. 31. Copy of minutes to be sent to Inspector.

27—(1) When complaint is made to the inspector by any ratepayer that the election of a trustee for a rural school district, or that the proceedings or any part thereof of any rural school meeting, have not been in conformity with the provisions of this Act, the inspector shall investigate the same, and confirm or set the election or proceeding aside, and appoint the time and place for a new election, or for the reconsideration of a school question, but no complaint in regard to any election or pro- Complaints as to elections.

ceeding at a school meeting shall be entertained by any inspector, unless made to him in writing within twenty days after the holding of the election or meeting.

Proceedings of Trustees not invalidated by illegally elected Trustee having acted.

(2) No resolution, by-law, proceeding or action of any board of trustees, shall be invalid or set aside by reason of any person whose election has been annulled or declared illegal having acted as a trustee. R.S.O., c. 225, s. 32; 44 Vic., c. 4, s. 21; 47 Vic., c. 37, ss. 6 and 20.

SECRETARY-TREASURER IN RURAL SCHOOL DISTRICTS.

Secretary-Treasurer to be appointed.

28. The board of school trustees shall appoint, as secretary-treasurer, one of their own number, or some other competent person, who shall give such security as may be required of him by the Board; such security shall be deposited with the clerk of the municipality. R.S.O., c. 225, s. 33; 44 Vic., c. 4, ss. 55 and 56.

Secretary-Treasurer—duties of.

29. It shall be the duty of a secretary-treasurer of a rural school board:—

(1) To keep a full and correct record of the proceedings of every meeting of the board in the minute-book provided by the trustees for that purpose, and to see that the minutes, when confirmed, are signed by the chairman or presiding trustee;

(2) To receive all school moneys collected from the inhabitants or ratepayers of the district or other persons, and to account for the same;

(3) To disburse all moneys in the manner directed by a majority of the trustees;

(4) To produce, when called for by the trustees, auditors or other competent authority, all papers and moneys belonging to the corporation;

(5) To call, at the request in writing of two trustees, a special meeting of the board of trustees. R.S.O., c. 225, s. 34.

Notices of meetings—how given.

30. Notice of all meetings shall be given by the secretary to each of the trustees, or by any one of the trustees to the others, by notifying them personally, or in writing or by sending a written notice to their residences. R.S.O., c. 225, s. 35.

Corporate acts must be adopted at lawful Trustee meetings.

31. No act or proceeding of a rural school corporation, which is not adopted at a regular or special meeting of the trustees, shall be valid or binding on any person affected thereby, unless notice has been given, as required by this Act, and unless at least two trustees are present. R.S.O., c. 225, s. 36.

Statement to be prepared by Secretary-Treasurer.

32. Every secretary-treasurer of a rural school district shall prepare and submit to the board of school trustees annually, previous to the annual election of trustees, a detailed statement of the receipts and expenditures of the school district for the current school year then expiring, and such statement, after being approved by the school trustees, shall be by them submitted at the annual meeting. The secretary-treasurer shall, on the payment to him of the sum of one dollar, furnish to any ratepayer a copy of such statement. 44 Vic., c. 4, s. 58.

Remuneration of Secretary-Treasurer.

33. The remuneration of a secretary-treasurer of a rural school district may, in the discretion of the school trustees, be fixed at any amount not exceeding the sum of ten dollars per annum. Such remuneration shall cover all services rendered and all contingent expenses whatever except such as may be specially authorized by the board. 44 Vic., c. 4, s. 59.

AUDITORS.

Appointment of Auditor.

34.—(1) Every board of rural school trustees shall, on or before the fifteenth day of November, appoint an auditor, and in case of their neglect, or the neglect of the ratepayers at an annual or special meeting to do so, or in case of an auditor being appointed or elected who refuses

or is unable to act, then the inspector shall (at the request in writing of any two ratepayers) make the appointment.

(2) It shall be the duty of the trustees, or their secretary-treasurer, Audit. to lay all their accounts before the school auditors of the district, or either of them, together with the agreements, vouchers, contracts and books in their possession, and the trustees, or their secretary-treasurer, shall afford to the auditors, or either of them, all the information in their or his power as to the receipts and expenditures of school moneys. R.S.O., c. 225, s. 37; 44 Vic., c. 4, s. 74.

35. The auditors appointed, or one of them, shall, on or immediately Time of audit. after the first day of November in each year, appoint a time, before the day of the next ensuing annual school meeting, for examining the accounts of the school district. R.S.O., c. 225, s. 38.

36. It shall be the duty of the auditors of every rural school district : Duties of Auditor.
(1) To examine into and decide upon the accuracy of the accounts of the district, and whether the trustees have duly accounted for and expended for school purposes the moneys received by them and to submit the said accounts, with a full report thereon, at the next annual school meeting ;

(2) In case of difference of opinion between the auditors on any matter in the account, it shall be referred to and decided by the Inspector ;

(3) If both of the auditors object to the lawfulness of any expenditures made by the trustees, they shall submit the matters in difference to the annual meeting, which may either determine the same or submit the matter to the Inspector, whose decision shall be final ;

(4) It shall be competent for the auditors, or one of them :

(a) To require the attendance of all or any of the persons interested in the accounts, and of their witnesses, with all such books, papers, and writings as the auditor or auditors may direct them or either of them to produce ;

(b) To administer oaths to such persons and witnesses ;

(c) To issue their or his warrant to any person named therein ; to enforce the collection of any moneys by them awarded to be paid ; and the person named in the warrant shall have the same power and authority to enforce the collection of the moneys mentioned in the said warrant, with all reasonable costs, by seizure and sale of the property of the party or corporation against whom the same has been issued, as any bailiff of a County Court has in enforcing a judgment and execution issued out of such court ;

(d) The auditors shall remain in office until their audit is completed. R. S. O., c. 225, s. 39.

DUTIES OF TRUSTEES OF RURAL DISTRICTS.

37. It shall be the duty of the trustees of rural school districts :

(1) To appoint the place of each annual school meeting of the rate-payers of the district, and the time and place of a special meeting of the same for (1) the filling up of any vacancy or vacancies in the trustee corporation occasioned by death, removal, or other cause ; or (2) for the selection of a new school site ; or (3) the appointment of a school auditor ; Meetings to be appointed by the Trustees. or (4) any other lawful school purpose, as they may think proper ; and to cause notices of the time and place, and of the objects of such meetings, Filling vacancies. to be posted in three or more public places of the district at least six days before the time of holding such meeting ; Notice.

(a) Every such meeting shall be organized, and its proceedings recorded in the manner provided for in Section 16, and the following sections of this Act.

Adequate accommodation.	(2) To provide adequate accommodation and a legally qualified teacher or teachers, according to the regulations prescribed by the Department of Education, for two-thirds of the actual resident children, between the ages of five and sixteen years, as ascertained by the census taken by the municipal council for the next preceding year;
Apply to municipalities for school moneys.	(3) To apply to the municipal council at or before its first meeting after the thirty-first day of July for the levying and collecting by rate of all sums for the support of their school or schools, and for any other school purposes authorized by this Act to be collected from the rate-payers of such district, or to raise the amount necessary for the purchase of school sites, the erection or otherwise acquiring of school houses and their appendages, either by one yearly rate or by debentures, as provided in Section 101 of this Act, as may be required by the trustees;
Arrange payment of salaries.	(4) To arrange for the payment of teachers' salaries at least quarterly, and, if necessary, to borrow on their promissory note, under the seal of the corporation, at interest not exceeding ten per cent. per annum, such moneys as may be required for that purpose, until the taxes imposed therefor are collected;
Repairing, etc., school-house.	(5) To keep the school house, furniture, out-buildings and enclosures in proper repair, and where there is no suitable school house belonging to the district, or where two or more school houses are required, to build or rent a house or houses, and to keep such house or houses, its or their furniture, out-buildings and enclosures in proper repair;
Names and addresses of trustees and teachers to be given to municipal clerk.	(6) To give notice in writing, before the first day of January in each year, to the Inspector and to the clerk of the municipality in which their school is situate, of the names and post office addresses of the several trustees then in office, of the secretary-treasurer and of the teachers employed by them, and to give reasonable notice in writing, from time to time, of any changes therein;
Exempt indigent persons.	(7) To exempt, in their discretion, from the payment of school rates, wholly or in part, any indigent persons, notice of such exemption to be given by the trustees to the clerk of the municipality, on or before the first day of August;
Dismissal of refractory pupils.	(8) To dismiss from the school, any pupil who shall be adjudged so refractory by the trustees (or by a majority of them), and the teacher, that his presence in school is deemed injurious to the other pupils;
Custody of school property.	(9) To take possession, and have the custody and safe keeping of all Public School property which has been acquired or given for Public School purposes in the district; and to acquire and hold as a corporation, by any title whatsoever, any land, moveable property, moneys or income given or acquired at any time for Public School purposes, and to hold or apply the same according to the terms on which the same were acquired or received; and to dispose, by sale or otherwise, of any school site or school property not required by them in consequence of a change of school site or other cause; to convey the same under their corporate seal, and to apply the proceeds thereof to their lawful school purposes, or as directed by this Act;
Sale of school site or other property.	
Visit schools.	(10) To visit, from time to time, every school under their charge, and see that it is conducted according to law and the authorized regulations, and to provide school registers and a visitors' book, in the form prescribed by the Department of Education;
Text-books.	(11) To see that no unauthorized books are used in the school, and that the pupils are duly supplied with a uniform series of authorized text-books, sanctioned by the Advisory Board; and to do whatever they may deem expedient in regard to procuring apparatus, maps, prize and library books for their schools;
Apparatus.	

- (12) To cause to be prepared and read at the annual meeting of the ratepayers, a report for the year then ending, containing, among other things, a summary of their proceedings during the year, together with a full and detailed account of the receipt and expenditure of all school moneys received and expended in behalf of the district for any purpose whatever, during such year, and signed by the trustees, and by either or both of the school auditors of the district; Report to annual meeting.
- (13) To transmit to the Department of Education the semi-annual and annual returns at the times and according to the forms prescribed by the Department of Education; Annual and semi-annual returns.
- (14) To collect, at their discretion, from the parents or guardians of children who do not reside, or are not assessed within the school district, a sum not exceeding fifty cents per month, for each pupil attending school. R. S. O., c. 225, s. 40; 44 Vic., c. 4, s. 39; 46 and 47 Vic., c. 46, s. 11; 47 Vic., c. 37, s.s. 12 and 13. Collection from non-residents.

DISTRICTS IN UNORGANIZED TERRITORY.

- 38—(1) In unorganized territory it shall be lawful for the inspector of the district to form a portion or the whole of such territory into a school district. Formation of school districts
- (2) No such district shall, in length or breadth, exceed five miles in a straight line, and, subject to this restriction, the boundaries may be altered by the same authority from time to time, and the alteration shall go into operation on the twenty-fifth day of November next after such alteration; Provided always, no such school district shall be formed except on the petition of five heads of families resident therein. R.S.O., c. 225, s. 41. Limits of school districts
39. After the formation of such a school district, it shall be lawful for any two of the petitioners, by notice posted for at least six days in not less than three of the most public places in the district, to appoint a time and place for a meeting for the election, as provided by law, of three school trustees for the district. R. S. O., c. 225, s. 43. Election of School Trustees.
40. The trustees elected at such meetings, or at any subsequent school meetings of the district, as provided by law, shall have all the powers and be subject to all the obligations of public school trustees generally. R. S. O., c. 225, s. 44. Powers and obligations of trustees.
41. The Inspector shall assume the functions of court of revision for any such district, and all the proceedings of the Inspector in the matter of the revision or correction of the assessment roll, shall be subject to the provisions of this Act, and shall have the same effect as if made in a court of revision. R. S. O., c. 225, s. 44. Inspector to constitute court of revision.
42. The trustees of all school districts in unorganized territory shall, annually, appoint a duly qualified person to make out an assessment roll for the district. R. S. O., c. 225, s. 45. Annual assessment roll.
43. A copy of the said roll shall be open to inspection by all persons interested, at some convenient place in the district, notice whereof, signed by the secretary-treasurer of the district, shall be annually posted in at least three of the most public places in the district, and shall state the place and the time at which the Inspector will hear appeals against said assessment roll, and such notice shall be posted as aforesaid by the trustees for at least three weeks prior to the time appointed for hearing the appeals. R. S. O., c. 225, s. 46. Appeal against assessment.
44. All appeals shall be made in the same manner and after the same notice, as nearly as may be, as appeals are made to a court of revision in the case of ordinary municipal assessments, and the Inspector shall have the same power as ordinary municipal courts of revision. Provided, Manner of appeal.

- that the court of revision need not be held in the district, R.S.O., c. 225' s. 47.
- Exemptions.** 45. The same exemptions shall be allowed in assessing property, as are allowed in connection with the collection of school taxes in districts in organized territory.
- Confirmed roll binding.** 46. The annual roll, as finally passed and signed by the inspector, shall be binding upon the trustees and ratepayers of the district, until the annual roll for the succeeding year is passed and signed as aforesaid. R.S.O., c. 225, s. 48.
- Union school districts.** 47. In forming union school districts between, and out of, an organized municipality and an unorganized locality, it shall be lawful for such union school district to be formed or altered according to the provisions of this Act, except that the Inspector shall act for the unorganized locality, and the reeve of the organized municipality for his municipality. R.S.O., c. 225, s. 50.
- Appointment and duty of school collector.** 48. The trustees shall appoint some fit and proper person, or one of themselves, to be a collector (who may also be secretary-treasurer), to collect the rates imposed by them upon the ratepayers of their school district, or the sums which the inhabitants or others may have subscribed; or a rate-bill imposed on any person; and pay to such collector, at the rate of not less than five, or more than ten per centum on the moneys collected by him; and every such collector shall give such security as shall be satisfactory to the trustees, which security shall be lodged for safe keeping with the Inspector by the trustees. R.S.O., c. 225, s. 51.
- Powers of school collector.** 49. Every such collector shall have the same powers in collecting the school rate, rate-bill or subscriptions, shall be under the same liabilities and obligations, and proceed in the same manner in his school district, as a municipal collector does in his municipality, in collecting rates, as provided in the Municipal and Assessment Acts, from time to time, in force. R.S.O., c. 225, s. 52.
- Sale of lands for taxes.** 50. A statement of arrears of taxes on lands may be returned by the collector to the secretary-treasurer of a rural municipality, near to such school district to be designated by the Inspector. Upon receipt of such statement of arrears of taxes by the secretary-treasurer, such municipality shall proceed to collect the same by sale of such land for taxes or otherwise, in the same manner, and with the same effect as if such lands were situate in and such taxes had been levied by such municipality. All moneys collected on account of such arrears, shall be paid over by such rural municipality to such board of school trustees, less a charge of five per cent. for collecting the same.
- Secs. 38 to 50 to apply to districts heretofore formed in unorganized territory.** 51. The above provisions as to unorganized territory shall apply to school districts formed but not within the limits of any organized municipality.
- RURAL SCHOOL SITES.**
- New sites.** 52. Before any steps are taken by the trustees for securing a new school site on which to erect a new school house, they shall call a special meeting of the ratepayers of the district to consider the site proposed; and no change of school site shall be made except in the manner hereinafter provided, without the consent of the majority of such special meeting. R.S.O., c. 225, s. 64.
- When trustees and ratepayers disagree.** 53. In case a majority of the trustees and a majority of the ratepayers present at such special meeting differ as to the situation of a new site, each party shall then and there choose an arbitrator, and the Inspector, or, in case of his inability to attend, any person appointed by him to act on his behalf, shall be a third arbitrator; and such three

arbitrators, or a majority of them present at any lawful meeting, shall have authority to make and publish an award upon the matter or matters submitted to them. R.S.O., c. 225, s. 65. Award.

54. With the consent, or at the request of the parties to the reference, the arbitrators, or a majority of them, shall have authority, within three months from the date of their award, to reconsider such award and make and publish a second award, which award, (or the previous one, if not reconsidered by the arbitrators) shall be binding upon all parties concerned for at least one year from the date thereof. R.S.O., c. 225, s. 66. Reconsideration of award.

55. If the owner of the land selected for a new school site, or required for the enlargement of school premises, refuses to sell the same, or demands therefor a price deemed unreasonable by the trustees of any district, then such owner and the trustees shall each forthwith appoint an arbitrator, and the arbitrators thus appointed, together with the inspector, or in case of his inability to attend, any person appointed by him on his behalf as third arbitrator, or any two of them, shall appraise the damages for such land. R.S.O., c. 225, s. 67. When owner refuses to sell.

56. If the majority of the school trustees, or the majority of a public school meeting, neglect or refuse, where there is a difference in regard to the selection of a school site, to appoint an arbitrator, as provided in the preceding section, or if the owner of the land selected as a school site, as provided by the said section, neglects or refuses to appoint an arbitrator, it shall be competent for the Inspector, with the arbitrator appointed, to meet and determine the matter; and the Inspector, in case of such refusal or neglect, shall have a second or casting vote, if he and the arbitrator appointed do not agree. R.S.O., c. 225, s. 68. Appointment of arbitrators — their powers

57—(1) The arbitrators aforesaid, or any two of them, shall have the power to settle all claims or rights of incumbrancers, lessees, tenants or other persons, as well as those of the owner, in respect of the land required for the purpose of the school site, upon notice in writing to every such claimant, and after hearing and determining his claims or rights. Additional powers of arbitrators.

(2) Upon the tender or payment of the amount of such damage to the owner or other person entitled thereto, or to any part of such amount, by the school trustees, the land shall be taken and used for the purpose aforesaid. R.S.O., c. 225, s. 69. Taking land.

58. If only a majority of the arbitrators appointed to decide any case arising under the authority of this Act are present at any lawful meeting, in consequence of the neglect or the refusal of the other arbitrator to meet them, it shall be competent for those present to make and publish an award upon the matter or matters submitted to them, or to adjourn the meeting for any period not exceeding ten days, and give the absent arbitrator notice of the adjournment. R.S.O., c. 225, s. 70. Proceedings where an arbitrator is absent.

59. Any award for a school site, made and published under this Act, if there be no conveyance, shall thereafter be deemed to be the title of the trustees to the land mentioned in it, and shall be a good title thereto against all persons interested in the property in any manner whatever, and shall be registered in the proper Registry Office or Land Titles Office, on the affidavit of one of the trustees verifying the same. R.S.O., c. 225, s. 71. Award to constitute title.

60. The parties concerned in all such disputes, shall pay all the expenses incurred in them, according to the award or decision of the arbitrators, and the inspector respectively. R.S.O., c. 225, s. 72. Cost of arbitration.

61. A school site shall not be selected within a hundred yards of the garden, orchard, pleasure ground, or dwelling house of the owner of the site, without his consent. R. S. O., c. 225, s. 73. Selection of school site.

Who may convey school sites.

62. All corporations and persons whatever, tenants in tail or for life, guardians, executors, administrators, and all other trustees whatsoever, not only for and on behalf of themselves, their heirs and successors, but also for and on behalf of those they represent, whether infants, issue unborn, lunatics, idiots, femmes-couvertes, or other person, seized, possessed of or interested in any land, may contract for, sell or convey all or part thereof to school trustees for a school site, or an addition to the school site, or for a teacher's residence; and any contract, agreement, sale, conveyance and assurance so made, shall be valid and effectual to all intents and purposes whatsoever; and the corporations or persons so conveying, are hereby indemnified for what they respectively do by virtue of, or in pursuance of this Act. R.S.O., c. 225, s. 75.

Remedy in case of absence of owner.

63. If the owner of land, duly selected for the said purpose, is absent from the municipality in which the land lies, or is unknown, the trustees may procure from a sworn surveyor, a certificate that he is not interested in the matter; that he knows the land, and that some certain sum therein named is, in his opinion, a fair compensation for the same; and, on filing the said certificate with the Judge of the County Court of the district in which the land lies, accompanied by an affidavit or affidavits which satisfy the Judge that the owner is absent from the municipality, and that, after diligent enquiry, he cannot be found, the Judge may order a notice to be inserted, for such time as he sees fit, in some newspaper published in the district; and he may, in addition thereto, order a notice to be sent to any person by mail, or may direct service of the same, to be effected in such other way as he sees fit. R.S.O., c. 225, s. 76.

What notice shall contain.

64. The notice shall contain a short description of the land, and a declaration of the readiness of the trustees to pay the sum certified as aforesaid; shall give the name of a person to be appointed as the arbitrator of the trustees, if their offer of that sum is not accepted; shall name the time within which the offer is to be accepted, or an arbitrator named by the owner; and shall contain any other particulars which the County Judge may direct. R. S. O., c. 225, s. 77.

Arbitrators.

Judge may appoint arbitrator.

65. If within such time as the Judge directs, the owner does not notify the trustees of the acceptance of the sum offered by them, or notify to them the name of a person whom he appoints as arbitrator, the Judge shall, on the application of the trustees, appoint a sworn surveyor to be sole arbitrator for determining the compensation to be paid for the property. R. S. O., c. 225, s. 78.

Responsibility of trustees as to compensation.

66. Where land is taken by the trustees without the consent of the owner, the compensation to be paid therefor shall stand in the stead of the land; and after the trustees have taken possession of the land, any claim to, or incumbrance upon the same or any portion thereof, shall, as against the trustees, be converted into a claim to the compensation or to a proportion thereof, and the trustees shall be responsible accordingly whenever they have paid such compensation or any part thereof to a party not entitled to receive the same, saving always their recourse against such party. R. S. O., c. 225, s. 79.

In case of incumbrance.

67. If the trustees have reason to fear any claims or incumbrance, or if any party to whom the compensation or any part thereof is payable refuses to execute the proper conveyance, or if the party entitled to claim the same cannot be found or is unknown to the trustees, or if for any other reason the trustees deem it advisable, they may pay the arbitration and other expenses, and deposit the amount of the compensation with the treasurer of the municipality, or in such other manner as the Inspector may direct, with interest thereon for six months, and may deliver therewith an authentic copy of the conveyance, or of the agreement or award if there be no conveyance; and such agreement or award

Deposit of compensation money.

shall thereafter be deemed to be the title of the trustees to the land therein mentioned, and shall be a good title thereto against all persons interested in the property in any manner whatever, and shall be registered in the proper Registry Office or Land Titles Office on an affidavit of one of the trustees verifying the same. R.S.O., c. 225, s. 80; 51 Vic., c. 31, s. 1. Award to be registered.

ALTERATION OF SCHOOL DISTRICTS.

68. Every council of a rural municipality shall have power,

(1) To pass by-laws to unite two or more districts in the same municipality into one, in case (at a public meeting in each district called by the trustees or Inspector for that purpose) a majority of the ratepayers present at each such meeting request to be united; Union of existing districts

(2) To alter the boundaries of a school district, or divide an existing district into two or more districts or to unite portions of an existing district with another district, or with any new district, in case it clearly appears that all persons to be affected by the proposed alteration, division or union respectively, have been duly notified, in such manner as the council may deem expedient, of the proposed proceeding for this purpose, or of any application made to the council to do so; Alteration etc. of school districts.

(3) Any such by-law shall not be passed later than the first day of May in any year, and shall not take effect before the twenty-fifth day of November next thereafter, and it shall be the duty of the clerk to send forthwith, after such by-law has been passed, a copy of the by-law and minutes relating to the formation or alteration or union to the trustees of every school district affected thereby, and to the Inspector. R. S. O., c. 225, s. 81; 44 Vic., c. 4, s. 14; 47 Vic., c. 37, s. 3. By-laws uniting districts.

69.—(1) A majority of the trustees, or any five ratepayers of one or more of the school districts concerned, may appeal to the County Court Judge of the district in which such district or districts is or are situated, against any by-law or resolution passed at any time previously by the municipal council, for the formation, division, union or alteration of their school district or districts, or against the neglect or refusal of the municipal council (on application being made to it by the trustees, or any five ratepayers concerned) to form, divide, unite, or alter the boundaries of a school district or school districts within the municipality. 48 Vic., c. 49, s. 82 (1); 50 Vic., c. 39, s. 14 (1). Appeal to County Judge

(2) Such County Court Judge shall have power to revise, determine, or alter the boundaries of the school district or school districts so far as to settle the matters complained of; but the alterations or determination of the said matters shall not take effect before the twenty-fifth day of November in the year in which the Judge so decides, and shall thence continue in full force for the period of three years at least, and until lawfully changed by the municipal council, but such change shall be subject to the like appeal to the County Court Judge; Provided, that where the decision of the Judge does not affirm that of the council, and an application for reconsideration signed by a majority of the ratepayers affected by the decision, or signed by a majority of the trustees of the district or districts affected by the decision, is delivered to the Judge of the County Court within three months of the giving of the decision, the said Judge may reconsider the matter, and if he thinks fit, may vary such decision, and shall, in such case, direct at what time the decision as varied shall go into effect, and the three years hereinbefore limited shall, in such case, be computed from the time when the decision varying the former decision is given. Appointment of arbitrators.

(3) Due notice of the alterations or the determination of the said matters made by the Judge, shall be given by the Judge to the clerk of the municipality, and to the trustees of the school districts concerned. Proviso.

Payment of
Judge.

(4) Such Judge shall be entitled to be paid the sum of five dollars per day, and actual travelling expenses in connection with said appeals, by the municipality in which the district or districts involved are situate. In case such district or districts is or are situate in more municipalities than one, then such payment shall be made by such municipalities in the proportion ordered by such Judge. R. S. O., c. 225, s. 82.

Adjustment
of claims be-
tween unions
in same muni-
cipality.

70. On the formation, dissolution, division or alteration of any school district in the same municipality, in case the trustees of the districts interested are unable to agree, the Inspector and two other persons appointed by the council as arbitrators shall value and adjust in an equitable manner all rights and claims consequent upon such formation, division, dissolution or alteration between the respective portions of the municipality affected, and determine in what manner and by what portion or by whom the same shall be settled; and the determination of the said arbitrators, or any two of them, shall be final and conclusive. R. S. O., c. 225, s. 83.

Disposal of
school prop-
erty when not
wanted.

71. In case a school site or school house or other school property is no longer required in the district, in consequence of the alteration or the union of school districts, the same shall be disposed of, by sale or otherwise, in such a manner as a majority of the ratepayers in the altered or united school districts may decide at a public meeting called for that purpose; and the inhabitants transferred from one school district to another shall be entitled, for the public school purposes of the district to which they are attached, to such a proportion of the proceeds of the sale of such school house or other public school property as the assessed value of their property bears to that of the other inhabitants of the school district from which they have been so separated; and the residue of such proceeds shall be applied to the erection of a new school house in the old school district, or to other public school purposes of such old district. In the case of united districts, the proceeds of the sale shall be applied to the like public school purposes of such united districts. R. S. O., c. 225, s. 84.

FORMATION AND DISSOLUTION OF UNION SCHOOL DISTRICTS COMPOSED OF PARTS OF TWO OR MORE MUNICIPALITIES.

What unions
may be formed

72. A union school district may be formed between (a) parts of two or more adjoining rural municipalities; (b), parts of one or more rural municipalities and an adjoining town or village. R. S. O., c. 225, s. 85.

Procedure for
formation, al-
teration or dis-
solution of
union.

73. The following shall be the procedure for the formation, alteration, or dissolution of union school districts:

(1) On the joint petition of five ratepayers of the territory in question from each of the municipalities concerned, to their respective municipal councils, asking for the formation, alteration or dissolution of a union school district, each municipal council so petitioned may appoint an arbitrator (who must not be a member of the council), notice of which shall be sent by the respective clerks to the Inspector or Inspectors, who shall be *ex-officio* arbitrators.

(2) In cases where the persons so appointed arbitrators would be an even number, the Senior County Court Judge shall be added, or in the case of an arbitration affecting two or more judicial districts, then the Senior County Court Judge of the judicial district having the largest population according to the last Dominion census.

(3) The first meeting of the arbitrators appointed under this section shall be called by the Inspector representing the greatest number of schools, and such Inspector shall give reasonable notice in writing of such meeting to the clerks of the municipalities concerned

(4) The arbitrators, or a majority of them, shall report to the municipalities concerned upon the expediency of such union, alteration or dissolution, the specific parcels of land to be included in such union, and the proportion in which the part in each municipality shall be liable to contribute towards the erection and maintenance of the school and other requisite expenses; and shall at the same time value and adjust in an equitable manner all rights and claims consequent upon the formation, alteration or dissolution of such union between the respective municipalities and school districts concerned, and shall also determine in what manner and by what municipality or municipalities or what portions thereof the same shall be settled, and the sum or sums of money to be paid by one portion of the municipalities or school districts concerned to the union school so formed, altered or dissolved, and the disposition of the property of the union and any payment by one portion to the other, and such valuation, adjustment and determination shall form and be considered as an integral portion of their report, and such report shall be taken as the award of the said arbitrators, and shall be binding on the municipalities and school districts concerned subject to the provisions of this Act.

(5) The Inspector entitled under Sub-section 3 to call the meeting of the arbitrators, shall call the first meeting for the election of trustees.

(6) Such union, alteration, or dissolution, shall not take effect until the 25th day of the month of November, which will be at least three months after the award of the arbitrators is filed with the clerks of the municipalities concerned.

(7) Nothing herein contained shall be construed as restraining any municipal council from enlarging the boundaries of any union school district as may be deemed expedient. R. S. O., c. 225, s. 86; 52 Vic., (Ont.) c. 52.

74—(1) The union of part of one or more rural municipalities with a town or village shall be deemed one school district, and as belonging to such town or village, and the provisions of this Act respecting public schools in towns or villages shall apply thereto; and such part of the rural municipality for all school purposes shall be deemed to be united to such town or village.

Union of parts of municipalities to be one school district

(2) In the case of a town or village divided into wards to which a part of an adjoining rural municipality or municipalities is attached for school purposes, the board of trustees of such union school district shall by resolution determine in which ward or wards the ratepayers in such part shall vote for the election of school trustees and at elections on other school questions, and in case of no such resolution, then such portion of the rural municipality shall be considered for all election purposes as attached to the ward or wards adjacent. R. S. O., c. 225, s. 90.

75—(1) Once in every three years the assessors of the municipalities in which a union school district is situated, shall after they have completed their respective assessments and before the first day of July, meet and determine what proportion of the annual requisition made by the trustees for school purposes shall be levied upon, and collected from the taxable property of the respective municipalities out of which the union school district is formed, and in the event of the assessors disagreeing as to such proportion, the Inspector in whose district the union school is situate, shall name a third person, who with the assessors aforesaid shall determine the said matter and report the same to the clerks of the respective municipalities, and the decision of a majority shall be final and conclusive for the said period of three years.

Assessors to determine proportion of annual requisition to be levied upon municipalities forming union

(2) When the union school district is composed of portions of two adjoining inspectoral districts then on the disagreement of the assessors

Case of union district form-

ed of portions of two inspect-oral districts. Confirmation of by-laws for certain purposes.

the Inspector of the district concerned containing the greatest number of schools shall name an arbitrator. R. S. O., c 225, s 91.

76. Any by-law passed for the formation, alteration or dissolution of school districts, shall become absolutely legal and valid, and the jurisdiction of any court to question the same shall be deemed to be ousted when such by-law has been submitted to and confirmed by the Department of Education, who shall require notice to be given of such application by the parties applying, by advertisement or otherwise, as they may direct, and the certificate of the Provincial Secretary endorsed on a certified copy of such by-law shall be conclusive evidence of such confirmation, and the provisions of this section may be taken advantage of for the confirmation of any by-law for any of such purposes heretofore passed and not quashed or otherwise declared invalid, and this section shall be deemed to apply to any such by-law. R. S. O., c. 225, s. 92.

Continuation of boundaries of rural districts.

77. In case a portion of the territory composing one or more school districts becomes incorporated as a village or town, the boundaries of such school district or districts shall continue in force and be deemed a union school district, notwithstanding such Act of incorporation, until altered as provided in Section 73 of this Act. R. S. O., c. 225, s. 93.

PUBLIC SCHOOL BOARDS IN CITIES, TOWNS AND VILLAGES.

When village town or city incorporated, old trustees to remain in office until new election.

78—(1) In case any village, town or city, is incorporated, the trustees having jurisdiction over the school property situated within such village, town or city, prior to its incorporation, shall exercise all the powers conferred by this Act, upon the trustees of villages, towns or cities, until a new election of trustees is held, and such trustees shall call a meeting of the ratepayers of such village, town or city, within one month after the date of such incorporation for the election of a new public school board.

New election.

Section 82 to apply to such election.

(2) In calling the meeting of the ratepayers of such newly incorporated village, town or city, the provisions of Section 82 shall be complied with, so far as the same are applicable. R. S. O., c. 225, s. 94.

Two trustees for each ward.

79—(1) For every ward into which any city, town or village is divided, there shall be two school trustees, each of whom, after the first election of trustees, shall continue in office for two years, and until his successor has been elected.

One trustee for each ward to retire annually.

(2) One of the trustees in each ward (to be determined by lot at the first meeting of trustees after their election, which determination shall be entered upon the minutes) shall retire from office at the time appointed for the next annual school election, and the other shall continue in office one year longer, and then retire. R. S. O., c. 225, s. 95; 48 Vic., c. 27, s. 15.

Trustees in village not divided into wards.

80. In every village not divided into wards, there shall be three trustees, whose term of office shall be the same as that of trustees elected at the first meeting in rural school districts. R. S. O., c. 225, s. 96.

Term of office.

81—(1) Every trustee shall continue in office until his successor has been elected, and the new board is organized.

Town or village annexed to city deemed part of city.

(2) When any town or village is annexed to a city, the town or village so annexed shall, for all the purposes of this Act, be deemed to be part of the city. R. S. O., c. 225, s. 96.

Election of trustees in cities, towns and villages.

82—(1) In cities, towns and villages the nomination and election of public school trustees shall be held at the same time and place, and by the same returning officer or officers, and conducted in the same manner as the municipal nominations and elections of aldermen or councillors, as the case may be, and the provisions of The Municipal Act respecting the qualification of electors, the time for opening and closing the poll, the mode of voting, corrupt or improper practices, vacancies

and declarations of office shall *mutatis mutandis* apply to the election of public school trustees.

(2) A separate set of ballot papers shall be prepared by the clerk of the municipality for all the wards or polling sub-divisions, containing the names of the candidates nominated for school trustees, of the same form as those used for councillors, except the substitution of the words "school trustee" for councillors or aldermen, as the case may be, on said ballot papers. R. S. O., c. 225, s. 103; 44 Vic., c. 4, s. 24; 48 Vic., c. 27, s. 16. Ballot papers.

83. Any actual resident ratepayer of the full age of twenty-one years, able to read and write and not disqualified under this Act, shall be eligible to be elected a public school trustee in any city, town or village. R. S. O., c. 225, s. 106. Who may be elected trustee

84. All contestations with regard to the election or qualification of school trustees in cities, towns and villages shall be regulated by the same law as that of municipal councillors and aldermen. All the provisions of the Municipal Act relating to such contestations shall apply *mutatis mutandis* to school trustees. 44 Vic., c. 4, s. 65. Contestations.

85. No resolution, by-law, proceeding or action of any board of trustees shall be invalid or set aside by reason of any person whose election has been annulled or declared illegal, having acted as trustee. 47 Vic., c. 37, s. 20. Setting aside election not to affect actions of board.

DUTIES OF BOARD IN CITIES, TOWNS AND VILLAGES.

86. It shall be the duty of the board of school trustees in cities, towns and villages: Duties of board.

(1) To appoint a secretary and treasurer or secretary-treasurer and one or more collectors, if requisite, of such school fees or rate bills as the board may have authority to charge; Appointment of secretary and collector

(a) The collector or collectors, and secretary, and treasurer, or secretary-treasurer (who may be of their own number), shall discharge similar duties, and be subject to similar obligations and penalties and have similar powers as the like officers in the municipality; Powers of secretary, collector, et al.

(2) To provide adequate accommodation, according to the regulations of the Department of Education, for all the children between the ages of six and sixteen, resident in the municipality, as ascertained by the census taken by the municipal council for the next preceding year; To provide adequate accommodation.

(3) To purchase or rent school sites and premises, and to build, repair, furnish and keep in order the school houses and appendages, lands, enclosures and moveable property, and procure registers in the prescribed form, suitable maps, apparatus and prize books, and, if they deem it expedient, establish and maintain school libraries; To provide school premises, apparatus, prize books and library.

(4) To determine the number, kind, grade and description of schools (such as male, female, infant, central or ward schools), to be established and maintained; the teachers to be employed; the terms on which they are to be employed; the amount of their remuneration, and the duties which they are to perform; Kind of schools.

(5) To prepare, from time to time, and lay before the municipal council of the city, town or village, on or before the first day of August an estimate of the sums which they think requisite for all necessary expenses of the schools under their charge; To lay before councils estimate for moneys.

(6) To collect, at their discretion, from the parents or guardians of children attending any public school under their charge, a sum not exceeding twenty cents per month per pupil, to defray the cost of text-books, stationery and other contingencies, and to see that all the pupils in the schools are duly supplied with a uniform series of authorized text-books, and to collect, at their discretion, from the parents or guardians of Trustees may collect a fee from parents.

To see that authorized books are used.

- children who do not reside or are not assessed within the school district a sum not exceeding one dollar per month for each pupil attending school;
- To submit accounts to auditors. (7) To submit all accounts, books and vouchers to be audited by the municipal auditors, and it shall be the duty of such auditors to audit the same;
- To give orders for moneys expended. Model school for teachers. (8) To give orders on the treasurer of the public school board for all moneys expended for school purposes;
- To publish auditor's report. To prepare annual report for Department of Education. School sites. (9) To constitute, at their discretion, one or more of the public schools of such city to be a model school for the preliminary training of public school teachers therein, subject to the regulations of the Department of Education;
- (10) To publish at the end of every year, in one or more of the public newspapers, or otherwise, the annual report of the auditors, and to prepare and transmit annually, before the 15th January, to the Department of Education, in the form prescribed by said Department, a report signed by the chairman containing all the information required by the regulations of the Department of Education;
- Exceptions. (11) Every public school board in a city, town or village shall have the same power to take and acquire land for a school site, or for enlarging school premises already held, as the trustees of rural schools; and shall have the same powers in regard to school property generally as are conferred upon the trustees of rural schools by Sub-section 9 of Section 37 of this Act; Provided always, that vacant land only shall be taken in such city, town or village for a school site without the consent of the owner, and in the event of disputes between the owner of the land selected and the trustees, Sections 52 to 60 of this Act shall apply;
- Kindergarten schools. (12) To provide, if deemed expedient, for children between three and six years of age a course of instruction and training according to the methods practiced in kindergarten schools, subject, however, to the regulations of the Department of Education in that behalf;
- Dismissal of refractory pupils. (13) To dismiss from the school any pupil who shall be adjudged so refractory by the trustees (or by a majority of them) and the teacher that his presence in school is deemed injurious to the other pupils. R.S.O., c. 225, s. 113; 44 Vic., c. 4, s. 39; 46 and 47 Vic., c. 46, s. 11; 47 Vic., c. 37, ss. 12 and 13; 48 V., c. 27, s. 17.
- Appointment of superintendent. (14) To appoint a superintendent for the city, town or village.

SCHOOL CENSUS.

- Census. 87. The municipal council of every rural municipality, city, town and village shall cause the assessor or assessors, in preparing his or their annual assessment roll, to set down therein, in separate columns, the number of children in rural municipalities between the ages of five and sixteen, and in cities, towns and villages between the ages of six and sixteen, opposite the name of each person on the assessment roll who are resident with him, and the clerk of the municipality shall furnish the secretary-treasurer of each district, or the secretary of the board of trustees for the city, town or village (as the case may be), and the Public School Inspector with a statement of the total number of children aforesaid in each school district, or in the city, town or village (as the case may be). R.S.O., c. 225, s. 114; 44 Vic., c. 4, s. 83.
88. The clerk of every municipality shall also, upon request, and free of any charge, furnish the Public School Inspector with a true statement of the assessed value of each school district, as shewn by the revised assessment roll for that year, and also of the several requisitions of the trustees for school moneys. R. S. O., c. 225, s. 116.
- Clerk to give copy of assessment to Inspector.

SCHOOL ASSESSMENT.

89.—(1) For the purpose of supplementing the Legislative grant, it shall be the duty of the council of each rural municipality, to levy and collect each year, by assessment upon the taxable property within the municipality, a sum equal to twenty dollars for each month, for which school has been kept open in each school district in the municipality during the current year; and for each school district partially included within the municipality, they shall levy and collect in like manner, a proportionate part of twenty dollars per month as fixed in the manner hereinafter provided. A school district which employs more than one teacher, shall receive said sum of twenty dollars per month for each teacher employed.

Amounts to be levied by councils of rural municipalities.

(2) From the moneys so levied and collected, the council shall, upon the first day of December following, pay over to each school district, wholly or partially included in the municipality, one-half the sum of twenty dollars per month, or the proportion thereof allotted to such district as hereinbefore provided; and upon the thirty-first day of January following, shall pay over the whole of the balance due to the said trustees, whether the necessary amount has been fully collected or not from the tax levied for the same; Provided that no board of trustees shall be entitled to receive a larger total amount for the school year than twenty dollars for each teacher, for each month within the same that they have actually had a teacher engaged at a salary, and, in case of doubt or dispute as to the number of months, the certificate of the Inspector shall decide.

Apportionment of amounts levied.

(3) It shall be the duty of the trustees of each school district wholly situated in a municipality, to lay before the council, at its first meeting after the thirty-first day of July in each year, a statement of the number of months in the current school year, during which they have kept and will keep school open, and the number of teachers employed; and before the thirty-first day of January following, shall notify the clerk of the municipality if they have failed to keep a teacher engaged as so stated by them, and, in such case, give the actual number of months they have had such teacher engaged.

Returns by trustees to municipal council as to time school kept open, etc.

(4) In the case of union school districts the municipal council of each municipality of which the union school district is composed shall levy and collect upon the taxable property of the municipality the said sum in the proportion which the assessment of the part of such union school within the municipality bears to the whole assessment of such union school district, as equalized under Section 75 of this Act.

Levies for union school districts.

(5) Any board of school trustees that fails to notify their council, in due time, of the number of months their school is to be kept in operation during any school year, as hereinbefore required, shall not be entitled to receive a larger amount in such year from the municipal levy than the council may, in their discretion, fix for them; and any board of trustees failing to keep a teacher under engagement the full time stated by them, shall not be entitled to receive their second instalment of school moneys due on January thirty-first, until they have notified the clerk of the municipality of the actual time such teacher has been under engagement; any board of trustees wilfully making a false statement in regard to such time shall forfeit their second instalment.

Penalty for not making the returns mentioned in sub-sec. 3.

(6) Any moneys collected by a council from a general levy for school purposes, that remain over in any year after all due payments therefrom have been made to the school districts entitled to the same, shall be deposited in some chartered bank by the said council, and afterward used only to pay or advance moneys to school districts within the muni-

Disposition of balance after making above mentioned payments.

unicipality in the year or years following. 48 Vic., c. 27, s. 9; 50 Vic., c. 18, ss. 4 and 5; 51 Vic., c. 31, s. 2; 52 Vic., c. 5, s. 1; 52 Vic., c. 21, s. 1; R. S. O., c. 225, s. 117.

Special levy.

90 The council of every rural municipality shall also levy on the taxable property in each school district, the sum of money required by such school district in addition to the Legislative grant and the general municipal levy as above provided. In the case of union school districts, the council of each municipality of which the union district is composed shall levy and collect, as aforesaid, said sum in the proportion in which the assessment of the part of such union district within the municipality bears to the whole assessment of such union district as equalized under Section 75 of this Act. 48 Vic., c. 27, s. 10; 50 Vic., c. 18, ss. 6 and 7.

School taxes to be a debt.

91. All school taxes or moneys actually collected or due by a municipal council remaining unpaid to the trustees after the date fixed by this Act for the payment of the same, shall be a debt due by the council to the trustees. 50 Vic., c. 18, s. 9.

City, town or village council to levy sums required for school purposes.

92. The municipal council of every city, town and village shall levy and collect upon the taxable property within the municipality, in the manner provided in this Act and in the Municipal and Assessment Acts, such sums as may be required by the public school trustees for school purposes. R. S. O., c. 225, s. 118.

What property to be taxable.

93. The taxable property in a municipality for school purposes shall include all property liable to municipal taxation, and also all property which has heretofore been or may hereafter be exempted by municipal council from municipal taxation, but not from school taxation. No municipal council shall have the right to exempt any property whatsoever from school taxation. 44 Vic., c. 4, ss. 27 and 29; 47 Vic., c. 37, s. 10; 50 Vic., c. 18, s. 8.

Assessors to value lands situated in each district.

94. Where the land or property of any individual or company is situated within the limits of two or more school districts, each assessor appointed by any municipality shall assess and return on his roll, separately, the parts of such land or property, according to the divisions or the school districts within the limits of which such land or property is situate. R. S. O., c. 225, s. 119.

A resident of one district sending his children to another district.

95. Any person residing in one school district and sending his children to the school of a neighbouring one, shall, nevertheless, be liable for the payment of all rates assessed on his taxable property for the school purposes of the district in which he resides, as if he sent his children to the school of such district. R. S. O., c. 225, s. 124.

School moneys — when to be paid over.

96. All sums levied and collected by the municipal council of any municipality for school purposes shall be paid over to the secretary-treasurer of the board of trustees, without any deduction whatever, from time to time as collected, or sooner if they so desire. R. S. O., c. 225, s. 125.

Payments to be made by treasurer.

97. The secretary-treasurer shall pay on the order of the board of trustees all sums of money due and payable for teachers' salaries, and all other school purposes. R. S. O., c. 225, s. 126.

BORROWING MONEY AND ISSUING DEBENTURES.

Borrowing money in rural districts to the amount of \$700 or less.

98. (1) The ratepayers of any rural school district may at a public meeting duly called, require the trustees to borrow any sum of money not exceeding the sum of seven hundred dollars (or in case the school district is already in debt, such a sum as will not increase the debt of the district beyond the sum of seven hundred dollars) for the purchase of school sites or erection and furnishing of school houses and their appendages or the purchase thereof, or the purchase or erection of a teacher's residence, or for the purpose of paying off any debt, charge or lien against the school house or teacher's residence, or against the corporation.

(2) Notice of such meeting shall be duly given by posting up on the door of the school house (if any) and in two or more other conspicuous places within the school district, at least two weeks previous to such meeting, a notice in the form or to the effect of that set forth in Schedule A to this Act. Notice of the meeting.

(3) A majority of the ratepayers of any such school district present at such meeting shall be sufficient to authorize such loan, along with the assent of the Department of Education. 44 Vic., c. 4, s. 104. Majority to be sufficient.

99. In the case of school districts in cities, towns and villages, and of rural school districts where the amount of the loan is greater than that authorized by the preceding section, it shall be necessary for the trustees to pass a by-law and submit the same to the ratepayers, to be voted on in the manner provided in the Municipal Act with regard to by-laws creating debts. All the provisions of the Municipal Act with respect to voting by electors upon by-laws creating debts shall apply (*mutatis mutandis*) to such school by-laws. It shall be the duty of the municipal council to submit any such by-law to vote on being requested to do so by the board of school trustees. In the case of rural school districts, the persons entitled to vote on such by-laws shall be all the owners of real estate within the district whose names appear upon the last revised municipal list of electors. Such by-law shall require the same majority as a municipal by-law creating a debt. The expense of submitting such by-law shall be paid to the municipal council by the trustees of the school district in the case of rural school districts. Borrowing money in cities, towns and villages and where amount exceeds \$700.

100.—(1) No loan under two thousand dollars shall be made for any term exceeding ten years, nor shall a loan be made, in any case, for a term exceeding twenty years. Terms of loan under \$2,000.

(2) The principal of such loan shall be made payable by annual instalments, unless with the sanction of the Department of Education. All school boards that have heretofore issued, or may hereafter issue, debentures not payable in instalments, shall raise an annual sinking fund sufficient to meet such debentures when due; such sinking fund may be invested with the Provincial Treasurer, who shall pay interest upon the same at the rate of 4 per cent. per annum, compounded annually. Such sinking fund shall not be invested in any security, unless approved by the Lieutenant-Governor in Council. 48 Vic., c. 27, s. 11. Principal to be payable in annual instalments. Sinking fund to be raised. Investment of sinking fund must be approved by Lt.-Governor in Council.

101. Any school district, having obtained the assent of the Department of Education to a loan, may issue debentures therefor in the form set forth in Schedule B to this Act, to secure the amount of the principal and interest of such loan, and the said debentures shall be signed by the secretary-treasurer, and countersigned by at least one trustee, and shall create a charge against all the school revenues of the district. The coupons attached to said debentures need be signed by the secretary-treasurer only. 44 Vic., c. 4, s. 104 (f). School districts may issue debentures.

102. No board of school trustees in a rural municipality, city, town or village, shall have the right to include in their estimate or levy for school purposes for any year, any amount for any of the purposes for which the trustees of rural school districts have power to borrow as provided in Section 98 hereof, if, thereby the special school rate for such school district is increased beyond eight mills in the dollar. Limit of annual rate fixed as to certain matters.

103. Notwithstanding any alteration which may be made in the boundaries of any school district, the taxable property situated in the school district, at the time when such loan was effected, shall continue to be liable for the repayment of the loan. R.S.O., c. 225, s. 131. Liability for loan.

104. Any rural school corporation may, with the consent of the ratepayers of their school district, first had and obtained at a special meeting duly called for that purpose, by resolution, authorize the borrowing School corporations may borrow surplus moneys.

from any municipal corporation of any surplus moneys, for such term and at such rate of interest as may be set forth in such resolution, for any of the purposes mentioned in Section 98 of this Act, and any sum or sums so borrowed shall be applied to that purpose, and that only. No sum greater than seven hundred dollars shall be so borrowed. R.S.O., c. 225, s. 134.

School loans require the assent of Department of Education. Form of minutes of school meeting therefor.

105.—(1) All school loans shall require the assent of the Department of Education, and the proceedings to obtain same shall be as follows:—

(2) The minutes of any meeting of ratepayers of a school district called to consider the propriety of borrowing money, as mentioned in the said Section 98, shall be headed with a statement in the following form, or to the same effect:—

“Minutes of a public meeting of the ratepayers of the school district No. _____ held the _____ day of _____, 188____, in pursuance of notice given as required by ‘The Public Schools Act,’ and called for the purpose of considering (and advising the trustees of said school district in respect to) the question of raising or borrowing a sum of money for the purpose of (here state the purpose for which the loan is intended as in the published or posted notice).

“The said meeting having been organized by the appointment of Mr. A. B. as chairman, and Mr. C. D. as secretary, the following proceedings were had:

“It was moved by Mr. _____ etc.” (the motions and formal proceedings of the meeting to be then given, certified at the foot thereof to be correct, and signed by the chairman and secretary).

(a) The said minutes shall also contain a list of the names of the ratepayers who voted at the said meeting upon the question of raising or borrowing money, distinguishing those who are freeholders from those who are not, and recording the vote given by each person for or against the said question. 46 and 47 Vic., c. 46, s. 17; 47 Vic., c. 54, s. 4.

Copy of said minutes to be given to secretary-treasurer of trustee board duly attested to.

(3) A copy of the said minutes shall be given to the secretary-treasurer of the board of trustees of the district for the information of the said board, and the original, with a statutory declaration endorsed thereon or attached thereto, taken before a justice of the peace or other person authorized to take declarations under the statute, with a copy of the notice calling such meeting, proving the posting of said notice as required by the Act, shall be given or transmitted to the Department of Education. Said Department shall decide whether such loan is a proper and necessary one. If said Department, having regard to the means of the ratepayers of such school district to repay the same, approves of such loan, said minutes, proof and other documents connected therewith shall be transmitted to the Provincial Secretary, together with a certificate or note of the approval thereof endorsed thereon, signed by the chief clerk or a member of said Department. 46 and 47 Vic., c. 46, s. 18.

Sec.-treas. of trustee board to transmit statement to Department of Education.

(4) It shall be the duty of the secretary-treasurer of the board of school trustees of any school district, upon being made aware that a loan, as aforesaid, had been sanctioned by the ratepayers, to at once transmit to the Department of Education a statement, duly certified under the hand of said secretary-treasurer and the seal of the said board of trustees, to be correct, showing the amount of the assessed value of the real and personal estate of such school district; its debenture indebtedness, including the amount proposed to be added under such by-law then being submitted for approval; its indebtedness other than under said debentures; the total rate required for all purposes, and the interest past due, if any, on the indebtedness of said school district. 46 and 47 Vic., c. 46, s. 19.

- (5) A statement embodying the information mentioned in the last preceding sub-section as to the assets and liabilities of the school district, shall be written or printed on the back of each debenture issued under the authority of the Act; and, following such statement, shall also be written or printed the words "Issued under the provisions of the Public Schools Act." 46 and 47 Vic., c. 46, s. 20. Said statement to be endorsed on back of each debenture.
Words endorsed thereunder
- (6.) Upon the assent of the Department of Education being obtained to such loan, and upon presentation within twelve months thereafter to the Provincial Secretary, or Acting Provincial Secretary, of the debenture or debentures issued to raise the same, the said Provincial Secretary, or Acting Provincial Secretary (unless such assent has in the meantime been withdrawn), shall sign such debenture or debentures under the statement or endorsement thereon hereinbefore mentioned, and shall affix the great seal of the Province thereto, and such signature and seal shall be conclusive evidence that all the formalities in respect to said loan, and the issue of such debenture, have been complied with, and of the correctness of the statement or endorsement thereof, and the legality of the issue of such debenture shall be thereby conclusively established, and its validity shall not be questionable by any court in this Province, but the same shall, to the extent of the revenues of the school district issuing the same, be a good and indefeasible security in the hands of any *bona fide* holder thereof. 46 and 47 Vic., c. 46, s. 21; 47 Vic., c. 37, s. 24. When Provincial Secretary is to sign and seal said debentures.
Effect thereof.
- (7.) The Department of Education, when the question of any school loan shall be before it for assent thereto, may take into consideration the effect of the proposed loan upon the security of any previous loan, in case the new proposed loan shall be repayable before a former one, or former ones, and may withhold such assent to such new loan, if it considers that the security of the holders of any existing debenture loan of such school district was likely to be rendered insufficient, by reason of the date of payment of the proposed new loan being prior to that of any then existing debenture debt of such district. 46 and 47 Vic., c. 46, s. 21. Department of Education may refuse to sanction loan.
- (8.) The provisions of this section shall apply (*mutatis mutandis*) to by-laws passed under Section 99 of this Act. This sec. to apply to by-laws passed under sec. 99. Application of 44 Vic., Cap. 24.
106. The provisions of chapter 24, 44 Victoria, respecting registration of debentures, shall not apply to any debenture certified to by the Provincial Secretary under the provisions of this Act, nor to any by-law or resolution respecting the issue of such debentures. 46 and 47 Vic., c. 46, s. 27.
- 107—(1) At any time in any one year before the estimate of a school district has been prepared by a board of school trustees or handed to the clerk of the municipality, or before the moneys have been paid over to the board by the municipality a board of school trustees in any city, town, village or rural municipality, may borrow moneys upon the credit of the board, and give the promissory note or notes of the board for the same or for the moneys heretofore borrowed to such an amount as is legally authorized; Provided, however, that no such moneys shall be borrowed or notes given to an amount exceeding in the aggregate one-half of the said estimate for the year, if such estimate has been made, nor one-half the amount of the said estimate for the next preceding year, if such estimate has not been made for the current year; and provided also, that such moneys shall only be borrowed or notes given upon a by-law or by-laws of the board, which shall recite the amounts previously borrowed and the notes previously given therefor and any sums paid thereon, but any error or omission in reciting such sums or notes shall not invalidate such by-law as against a *bona fide* lender or Loans for current expenses.
Proviso.

payee or holder for value of any such note, not having notice of such error or omission.

Application of sums levied.

(2) Upon the payment to the board by a municipality of any portion of the sums to be levied for the trustees by a municipality, it shall be the duty of the board of school trustees to apply one-half of such sum so paid to it to the reduction of the debt or debts incurred for money so borrowed or upon such note or notes, or in the event of no such debt or note or not sufficient thereof to exhaust the one-half of the sum so paid being then overdue, then to deposit such half, or the unexhausted portion thereof, in some chartered bank, and to apply the same to such debts or notes as they become due and payable. 47 Vic., c. 37, s. 27.

LEGISLATIVE GRANT.

Legislative grant, how paid.

108. (1) The sum of seventy-five dollars shall be paid semi-annually for each teacher employed in each school district which has been in operation during the whole of the previous term, and a proportionate part thereof in case the school has been in operation for a part of the same; and in the case of newly established schools, to those which have been in operation for at least one month of said term; Provided that, except in the case of new school districts, no school shall be entitled to receive a larger amount than one-half the sum required by the trustees thereof for its current expenses during the term for which such grant is made; Provided further, that a reduction in the amount to be made may, in the discretion of the Department of Education, be made in the case of any school district in which the average attendance of the resident pupils enrolled for the term has been less than forty per cent. of such enrolled number.

Returns must be transmitted.

(2) No school shall be entitled to receive any portion of the Legislative grant whose trustees have neglected to transmit within the time provided by law in the preceding year the annual or semi-annual returns as required by the regulations of the Department of Education, or whose school has not been kept in operation at least six months during the school year, unless with the sanction of the Department of Education. 48 Vic., c. 27, s. 1.

School must be conducted according to law.

(3) Any school not conducted according to all the provisions of this or any Act in force for the time being, or the regulations of the Department of Education or the Advisory Board, shall not be deemed a public school within the meaning of the law, and such school shall not participate in the Legislative grant. 48 Vic., c. 27, s. 3.

Payments to be made to the order of the teacher.

109. All payments to school districts shall be made to the order of the teacher or teachers of the school unless it be shown that the salary of such teacher or teachers has been paid in full.

Balance of education grant to be distributed.

110. In case after paying said grant of seventy-five dollars per half year, and paying all the expenses and salaries of the Department of Education, the balance (if any) of the grant for education shall be divided among the school districts in the same proportion in which said school districts have received said grant for the current year.

SCHOOL CORPORATIONS.

Trustees a corporation.

111.--(1) The trustees of every school district shall be a corporation under the name of "The School District of
Number . . ."

Names.

(2) The names under which the corporations of school districts existing at the date of the coming into force of this Act are known, shall continue to be their respective corporate names until altered by the Department of Education under the provisions of this section, and no change in

the corporate name of any school district made in accordance with the provisions of this Act shall affect any obligations, rights, actions or property incurred, established, done or acquired prior to such change.

(3) The number of each school district shall be furnished to them by the Department of Education. R. S. O., c. 225, s. 33; 48 Vic., c. 27, s. 23. Number.

(4) The Department of Education may change the corporate name of any school district and in such case the seal theretofore used by such district shall continue to be the seal thereof until changed by the trustees. Change of name.

DISQUALIFICATION OF SCHOOL TRUSTEES.

112. No person shall be eligible to be elected or serve as a school trustee who is not a resident ratepayer of the school district he proposes to represent. 44 Vic., c. 4, s. 53; 47 Vic., c. 37, s. 17; 48 Vic., c. 27, s. 7. Trustee must be resident ratepayer.

113. No person convicted of felony, or of an infamous crime, shall be eligible to be elected or serve as a school trustee. 44 Vic., c. 4, s. 54. Persons convicted of felony are disqualified.

MEETING OF BOARDS OF SCHOOL TRUSTEES.

114. The members of every board of school trustees shall hold their first meeting on the first Wednesday in January following the election, at the hour of eight o'clock in the evening, at the usual place of meeting of such board, and no business shall be proceeded with at such first meeting except the appointment of a chairman and such other business as may be necessary for the organization of such board. R. S. O., c. 225, s. 107. First meeting of board.

115. At the first meeting in each year of every public school board, the secretary of such board shall preside, or, if there be no secretary, the members present shall select one of themselves to preside at the election of chairman, and the member so elected to preside may vote as a member. R.S.O., c. 225, s. 108. President at first meeting.

116. In case of an equality of votes at the election of chairman of any such board, the member who is assessed as a ratepayer for the largest sum on the last revised assessment roll shall have a second or casting vote in addition to his vote as a member. R.S.O., c. 225, s. 109. Casting vote.

117. Subsequent meetings of the board shall be held at such times and places as may from time to time be fixed by resolution of the board. R.S.O., c. 225, s. 110. Subsequent meetings of board.

118. The chairman of the board shall preside, or in his absence any other person appointed to act as chairman by the majority of those present, and such chairman or person so acting may vote with the other members on all questions, and any question on which there is an equality of votes shall be deemed to be negatived. R.S.O., c. 225, s. 111; 44 Vic., c. 4, s. 38. Presiding officer of board.

119. A majority of the members of such board, when present at any meeting, shall constitute a quorum, and the vote of the majority of such quorum shall be valid to bind the corporation. R.S.O., c. 225, s. 112. Quorum of school boards, etc.

120. The majority at any meeting of school trustees shall have power to decide all questions. Majorities shall decide.

LIABILITY FOR SCHOOL MONEYS.

121. The council of every city, town, village and rural municipality, shall be responsible to Her Majesty, and to all other persons interested, that all school moneys coming into the hands of the treasurer of the city, town, village, or rural municipality, in virtue of his office, shall be by him duly paid over and accounted for, according to law. R.S.O., c. 225, s. 145. Council responsible on default of treasurer, etc.

Treasurer, etc., responsible to municipality, etc.

122. The treasurer and his sureties shall be responsible and accountable for such moneys in like manner to the city, town, village, or rural municipality, and any bond or security given by them for the duly accounting for, and paying over moneys coming into his hands, belonging to the city, town, village, or rural municipality, shall be taken to apply to all public school moneys, and may be enforced against the treasurer or his sureties, in case of default on his part. R.S.O., c. 225, s. 146.

Bonds to apply to school moneys, etc.

123. The bond of the treasurer and his sureties shall apply to school moneys, and in case of any default, Her Majesty may enforce the responsibility of the city, town, village, or rural municipality, either by stopping a like amount out of any public moneys payable to the city, town, village, or rural municipality, or to the treasurer thereof, or by action against the corporation. R. S. O., c. 225, s. 147.

City, etc., responsible for default of treasurer, etc.

124. Any person aggrieved by the default of the municipal treasurer, may recover from the corporation of any city, town, village, or rural municipality, the amount due or payable to such person as money had and received to his use. R. S. O., c. 225, s. 148.

TEACHERS.

Valid agreements with teacher.

125. All agreements between trustees and teachers, to be valid and binding, shall be in writing, signed by the parties thereto, and sealed with the corporate seal of the trustees, and such agreements may lawfully include any stipulation to provide the teacher with board and lodging. R. S. O., c. 225, s. 151; 44 Vic., c. 4, s. 76.

Qualified teacher defined.

126. No teacher of a public school shall be deemed legally qualified who does not at the time of his engaging with the trustees, and during the period of such engagement, hold a legal certificate of qualification. R. S. O., c. 225, s. 152.

Duties of public school teacher. To teach according to law.

127. It shall be the duty of every teacher of a public school :

(1) To teach, diligently and faithfully, all the branches required to be taught in the school, according to the terms of his engagement with the trustees, and according to the provisions of this Act, and the regulations of the Department of Education and the Advisory Board ;

To keep the register of the school.

(2) To keep, in the prescribed form, the general entrance and the daily class, or other registers of the school, and to record therein the admission, promotion, removal, or otherwise, of the pupils of the school ;

To maintain order and discipline. To keep a visitors' book.

(3) To maintain proper order and discipline in his school, according to the prescribed regulations ;

(4) To keep a visitors' book (which the trustees shall provide) and enter therein the visits made to his school, and to present said book to every visitor and request him to make therein any remarks suggested by his visit ;

To give access to register and visitors' book. To deliver up register and key.

(5) To give the trustees and visitors access at all times, when desired by them, to the registers and visitors' book appertaining to the school ;

(6) To deliver up any school registers, visitors' book, school house key, or other school property in his possession on the demand or order of the majority of the trustees employing him ;

In case of refusal.

(7) In case of his wilful refusal so to do he shall not be deemed a qualified teacher until restitution is made, and shall also forfeit any claim which he may have against the said trustees ;

To hold public examinations.

(8) To hold during each term a public examination of his school, of which he shall give due notice to the trustees of the school, to any school visitors who reside in or adjacent to the school, and through the pupils to their parents or guardians ;

To furnish information to

(9) To furnish to the Department of Education, or to the School Inspector, from the trustees' report or otherwise, any information which

it may be in his power to give respecting anything connected with the operations of his school, or in any wise affecting its interests or character; the Department and Inspector.

(10) To prepare, so far as the school registers supply the information, such reports of the corporation employing him as are required by the regulations of the Department of Education; To prepare reports.

(11) To notify the medical health officer of the municipality, or where there is none to notify the local board of health or the trustees, whenever he has reason to believe that any pupil attending school is affected with or exposed to smallpox, cholera, scarlatina, diphtheria, whooping-cough, measles, mumps or other contagious disease, and to prevent the attendance of all pupils so exposed, or suspected of being exposed, until furnished with a written statement of the health officer, or of the local board of health, or of a physician, that such contagious diseases did not exist, or that all danger from exposure to any of them had passed away. To take precautions against spread of infectious diseases.
R.S.O., c. 225, s. 153; 44 Vic., c. 4, s. 75.

128. Every qualified teacher of a public school employed for any period not less than three months shall be entitled to be paid his salary in the proportion which the number of teaching days during which he has taught in the calendar year bears to the whole number of teaching days in such year, unless otherwise expressly agreed. Proportion of salary to which teacher entitled. R.S.O., c. 225, s. 154.

129. In case of sickness, certified by a medical man, every teacher shall be entitled to his salary during such sickness, for a period not exceeding four weeks for the entire year; which period may be increased at the pleasure of the trustees. Case of sickness. Four weeks allowed. R.S.O., c. 225, s. 157.

130. Any teacher whose agreement has expired with a board of trustees, or who is dismissed by them, shall be entitled to receive forthwith all moneys due him for his services as teacher while employed by the said board; if such payment be not made by the trustees or tendered to the said teacher by them, he shall be entitled to recover from the said trustees the full amount of his salary due and unpaid with interest, until payment is made, by a suit in a court of competent jurisdiction. What teacher entitled to recover. R.S.O., c. 225, s. 158; 48 Vic., c. 27, s. 13.

CERTIFICATES.

131. Every certificate to teach a public school shall be ranked as of the first, second or third class, and shall be issued under the regulations of the Department of Education and the Advisory Board, only to such persons as (a) furnish satisfactory proof of good moral character, (b) and, if males, are at least eighteen years of age, or if females, sixteen years of age, and (c) pass the examinations prescribed by the Department of Education and Advisory Board. Three classes of certificates. R.S.O., c. 225, s. 159.

132. The Inspector of public schools may suspend the certificate of any teacher under his jurisdiction for inefficiency, misconduct, or a violation of the regulations of the Department of Education or Advisory Board or of this Act. In every case of suspension, he shall notify in writing the trustees concerned, and the teacher, of the reasons for such suspension. Suspension of certificates for misconduct, etc. R.S.O., c. 225, s. 164.

133. Any teacher who enters into an agreement at common law with a board of trustees, and who wilfully neglects or refuses to carry out such agreement shall, on the complaint of any board of school trustees, be liable to the suspension of his certificate by the Inspector under whose jurisdiction he may be for the time being. Suspension of certificate for breach of agreement. R. S. O., c. 225, s. 165.

134. The Inspector shall in all cases of suspension notify the Department of Education, and the Department shall as soon as possible decide what shall be done in the premises. Inspector to notify Department of suspension.

INSPECTORS.

Qualification for appointment as inspector.

135. No person shall be eligible to be appointed an Inspector who does not hold a legal certificate of qualification as Inspector, granted according to the regulations of the Department of Education and Advisory Board, and no person who is a teacher or trustee of any public or high school shall be eligible for an appointment as Inspector so long as he remains such teacher or trustee. R. S. O., c. 225, s. 175.

Inspector not to hold other offices.

136. No inspector of schools shall, during his tenure of office, engage in or hold any other employment, office or calling which would interfere with the full discharge of his duties as Inspector as required by law. R. S. O., c. 225, s. 188.

Inspector to swear witnesses in certain cases.

137. In cases where an Inspector requires the testimony of witnesses to the truth of any facts alleged in any complaint or appeal made to him or to the Department of Education, it shall be lawful for such Inspector to administer an oath to such witnesses, or to require their solemn affirmation, before receiving their testimony. R.S.O., c. 225, s. 189.

ALLOWANCE TO ARBITRATORS.

Allowance to Arbitrators and Inspectors

138.—(1) All persons engaged as arbitrators on any matter arising under this Act, and Inspectors who are acting as arbitrators, while engaged in investigating and deciding upon school complaints and disputes, shall be entitled to the sum of two dollars and fifty cents per day and actual travelling expenses.

Award.

(2) In making their award the arbitrators shall among other things determine the liabilities of the parties concerned therein for the costs of such arbitration, and such determination shall be final and conclusive. R. S. O., c. 225, s. 190.

NON-RESIDENT PUPILS.

Admission of non-resident pupils.

139. It shall be the duty of the trustees of every rural school district and of every public school board to admit, on payment in advance of fees not exceeding fifty cents per pupil for every month, any non-resident pupils who reside nearer to such school than the school in their own district; and in case of dispute as to the distance from the school the Inspector shall decide; but no trustee shall be required to admit any such children, unless they have sufficient school accommodation and a sufficient teaching staff besides what is required for the children attending such school from their own district.

Proviso.

HOLIDAYS.

Holidays.

140. Every Saturday, every statutory holiday, and every day proclaimed a holiday by the municipal authorities in which the school district is situated, shall be a holiday in the public schools. R. S. O., c. 225, s. 204; 44 Vic., c. 4, s. 100.

AUTHORIZED BOOKS.

Only authorized text books to be used.

141. No teacher shall use or permit to be used as text books any books in a model or public school, except such as are authorized by the Advisory Board, and no portion of the legislative grant shall be paid to any school in which unauthorized books are used. R. S. O., c. 225, s. 205.

Change of text books.

142. Any authorized text book in actual use in any public or model school may be changed by the teacher of such school for any other authorized text book in the same subject on the written approval of the trustees and the inspector, provided always such change is made at the beginning of a school term, and at least six months after such approval has been given. R. S. O., c. 225, s. 206.

143. In case any teacher or other person shall negligently or wilfully substitute any unauthorized text book in place of any authorized text book in actual use upon the same subject in his school, he shall for each such offence, on conviction thereof before a Police Magistrate or Justice of the Peace, as the case may be, be liable to a penalty not exceeding \$10 payable to the municipality for public school purposes, together with costs, as the Police Magistrate or Justice may think fit. R.S.O., c. 225, s. 207.

Substitution of unauthorized text books.

LIBRARIES.

144. The council of every municipality may raise by assessment such sums as it may judge expedient for the establishment and maintenance of a public school library, subject to the regulations of the Department of Education. R. S. O., c. 225, s. 208.

Establishment of libraries.

SPECIAL INQUIRIES.

145. The Department of Education shall have power to appoint one or more persons, as the Department from time to time deems necessary, to inquire into and report to the Department upon any school matter; such person or persons shall be entitled to such remuneration out of any moneys appropriated by the Legislature for that purpose as may be deemed just and equitable, considering the nature and extent of the duties to be performed. Such person or persons, or any of them, shall have power to administer oaths to witnesses, or require them to make solemn affirmation of the truth of the matters they may be examined upon. R. S. O., c. 225, s. 226.

Commission of enquiry.

Remuneration of Commissioners.

Power to commissioners to administer oaths.

146. In any matter of inquiry which the Department of Education is by law authorized to institute, make or direct, a writ or writs of *subpœna ad testificandum* and also *duces tecum* may issue from the Court of Queen's Bench upon the *prœcipe* of the Department of Education therefor, containing the names of the witnesses intended to be summoned thereby, to be directed to such person or persons for him or them to attend and give evidence under oath, at such times and places, and before such person or persons as the Department of Education shall appoint, and any default of any such person in obeying any such *subpœna* shall be punishable as in the like case in any action or cause in the said court. R.S.O., c. 225, s. 227.

Compelling attendance of witnesses.

SCHOOL VISITORS.

147.—(1) All clergymen, members of the Advisory Board, Judges, members of the Legislature and members of municipal councils, shall be school visitors in the rural municipalities, cities, towns and villages where they respectively reside.

Public school visitors defined.

(2) A clergyman shall be a school visitor only in the rural municipality, town, city or village where he has pastoral charge. R.S.O., c. 225, s. 238; 44 Vic., c. 4, s. 80.

Clergymen as visitors.

148. Each of the school visitors may visit the public schools in the rural municipality, city, town or village, as aforesaid. They may also attend the quarterly examination of schools, and, at the time of any such visit, may examine the progress of the pupils, and the state and management of the school, and give such advice to the teacher and pupils, and any others present, as they think advisable, in accordance with the regulations and instructions provided in regard to school visitors. R.S.O., c. 225, s. 239.

Their authority to visit public schools.

149. A general meeting of the visitors may be held at any time or place appointed by any two visitors, on sufficient notice being given to the other visitors in the rural municipality, city, town or village. R.S.O., c. 225, s. 240; 44 Vic., c. 4, s. 81.

General meeting of school visitors.

Authority at such meetings 150. The visitors thus assembled may devise such means as they deem expedient for the efficient visitation of the schools, and for promoting the establishment of libraries and the diffusion of useful knowledge. R.S.O., c. 225, s. 241.

PENALTIES AND PROHIBITIONS.

Penalty for making a false declaration. 151. No person shall wilfully make a false declaration of his right to vote at any school meeting or election of school trustees; and any person convicted of a contravention of this section, upon the complaint of any person, shall be punishable by a penalty of not less than \$5 or more than \$10, to be sued for and recovered with costs before a justice of the peace by the public school trustees of the city, town, village or school district, for its use. R.S.O., c. 225, s. 243; 44 Vic., c. 4, s. 112.

Fine on disqualified person acting as trustee. 152. If any person elected as a school trustee attends any meetings of the school board as such, after being disqualified under this Act, he shall be liable to a penalty of \$20 for every meeting so attended. R.S.O., c. 225, s. 244.

Trustees not to hold certain offices. 153. No trustee of a school district shall hold the office of Public School Inspector, or be a master or teacher within the district of which he is a trustee; nor shall the master or teacher of any public or high school hold the office of trustee, nor shall an Inspector be a teacher or trustee of any public or high school while he holds the office of Inspector. R.S.O., c. 225, s. 245; 44 Vic., c. 4, s. 42.

Seat vacated by conviction for crime, etc. 154. Any trustee who is convicted of any felony, or becomes insane, or absents himself from the meetings of the board for three consecutive months, without being authorized by resolution entered upon its minutes, or ceases to be an actual resident within the school district for which he is a trustee, shall *ipso facto* vacate his seat, and the remaining trustees shall declare his seat vacant and forthwith order a new election. R.S.O., c. 225, s. 246; 44 Vic., c. 4, ss. 44, 45 and 46, and 49.

Seat vacated by interest in contract with corporation. 155. Any trustee who has any pecuniary interest, profit or promise, or expected benefit in or from any contract, agreement or engagement, either in his own name or in the name of another, with the corporation of which he is a member, or who receives or expects to receive any compensation for any work, engagement, employment or duty, on behalf of such corporation, except as secretary-treasurer, or for a school site, shall *ipso facto* vacate his seat, and every such contract, agreement, engagement or promise shall be null and void, and the remaining trustees, or a majority of them, shall declare the seat vacant and forthwith order a new election. R.S.O., c. 225, s. 247; 44 Vic., c. 4, s. 41; 47 Vic., c. 37, s. 14.

Penalty for not calling school meetings. 156. In case any annual or other rural school meeting has not been held for want of the proper notice, every trustee or other person whose duty it was to give the notice shall forfeit the sum of \$5, to be sued for and recovered before a justice of the peace by any resident inhabitant in the rural school district, for his own use. R.S.O., c. 225, s. 248.

Penalty for disturbing a school meeting. 157. Any person who wilfully disturbs, interrupts or disquiets the proceedings of any school meeting authorized to be held by this Act, or any one who wilfully interrupts or disquiets any public school established and conducted under authority of this Act, or other school, by rude or indecent behaviour, or by making a noise either within the place where such school is kept or held or so near thereto as to disturb the order or exercises of the school, shall, for each offence, on conviction thereof, forfeit and pay for public school purposes to the school district within which the offence was committed, a sum not exceeding \$20, together with the costs of the conviction. R.S.O., c. 225, s. 249; 44 Vic., c. 4, s. 114.

158. Any person elected to the office of school trustee who refuses to serve as such, shall forfeit the sum of \$5 for the use of the school district, and his neglect or refusal to take the declaration of office within one month after his election, if resident at the time within the district, shall be construed as such refusal, after which another person shall be elected to fill the place; but no school trustee shall be re-elected, except by his own consent, during the four years next after his going out of office. R.S.O., c. 225, s. 250; 44 Vic., c. 4, s. 43; 47 Vic., c. 37, s. 15.

Penalty for refusing to act as trustee.

Trustee exempt for four years.

159. Every person so chosen who has not refused to accept the office, and who at any time refuses or neglects to perform its duties, shall forfeit the sum of \$20 to be sued for and recovered before a justice of the peace by the trustees of the school district, or by any person whatsoever for its use, as authorized by this Act. R. S. O., c. 225, s. 25; 44 Vic., c. 4, s. 107 and 115; 47 Vic., c. 37, s. 26.

Penalty for refusing to perform duties

160. If the trustees of any public school wilfully neglect or refuse to exercise all the corporate powers vested in them by this Act, for the fulfilment of any contract or agreement made by them, any trustee or trustees so neglecting or refusing to exercise such power shall be held to be personally responsible for the fulfilment of such contract or agreement. R.S.O., c. 225, s. 252; 44 Vic., c. 4, s. 116.

Penalty for refusing to exercise corporate powers

161. Any chairman who neglects to transmit to the Inspector a minute of the proceedings of an annual or other rural school meeting over which he has presided, within ten days after the holding of such meeting, shall be liable on the complaint of any ratepayer, to a fine of not more than \$5, to be recovered as provided by this Act. R.S.O., c. 225, s. 253.

Penalty on chairman for neglect.

162. If any trustees of any school district refuse or neglect to take proper security from the secretary-treasurer, or other person to whom they entrust school moneys, they shall be held personally responsible for the moneys. R.S.O., c. 225, s. 254; 47 Vic., c. 37, s. 18.

Liability for neglect to take security.

163. If any part of the public school fund or moneys is embezzled or lost, through the dishonesty or faithlessness of any trustee, secretary-treasurer, or other person to whom it has been entrusted, and proper security against the loss has not been taken, the person or persons whose duty it was to have exacted the security shall be personally responsible for the sums so embezzled or lost; and such sums may be recovered from him or them by the person entitled to receive the same by action in any court having jurisdiction to the amount, or by information at the suit of the Crown. R.S.O., c. 225, s. 255.

Responsibility in case of lost school moneys.

164. No secretary-treasurer appointed by the school trustees of any school district, and no person having been such secretary-treasurer, and no trustee or other person who may have in his possession any books, papers, chattels, or moneys, which came into his possession as such secretary-treasurer, trustee or otherwise, shall wrongfully withhold, or neglect or refuse to deliver up, or account for, and pay over the same or any part thereof to the person, and in the manner directed by a majority of the school trustees for the school district then in office, or by other competent authority; and such withholding, neglect or refusal to deliver up or account for, shall be punishable, as provided in the three following sections of this Act. R. S. O., c. 225, s. 256; 44 Vic., c. 4, s. 108.

Penalty to be inflicted on secretary-treasurer, or trustee for refusing to account.

165.—(1) Upon application to the County Court Judge of the district in which the school district or any part of it is situate, by a majority of the trustees, or any two ratepayers in a school district supported by their affidavit made before some justice of the peace, of such wrongful withholding or refusal, the Judge shall make an order that such secretary-treasurer, or person having been such secretary-treasurer or trustee, or other person do appear before him at a time and place to be appointed in the order.

Mode of proceeding.

(2) Any bailiff of a county court, upon being required by the Judge, shall serve the order personally on the person complained against, or leave the same with a grown-up person at his residence. R. S. O., c. 225, s. 256.

Judge to issue order.

166. At the time and place so appointed, the Judge being satisfied that service has been made, shall, in a summary manner, and whether the person complained of does or does not appear, hear the complaint, and if he is of opinion that the complaint is well founded, the Judge shall order the person complained of to deliver up, account for, and pay over the books, papers, chattels, or moneys as aforesaid, by a certain day to be named by the Judge in the order, together with such reasonable costs incurred in making the application as the Judge may tax. R.S.O., c. 225, s. 258.

Effect of non-compliance with Judge's order.

167. In the event of non-compliance with the terms specified in such order, or any or either of them, the Judge shall order the said person to be forthwith arrested by the sheriff of any judicial district in which he may be found, and to be committed to the common gaol thereof, there to remain without bail until the Judge be satisfied that the person has delivered up, accounted for, or paid over, the books, papers, chattels or moneys in question, in the manner directed by the majority of the trustees, or other competent authority as aforesaid; upon proof of his having so done, the Judge shall make an order for his discharge, and he shall be discharged accordingly. R.S.O., c. 225, s. 259.

Other remedy not affected.

168. No such proceeding shall impair or affect any other remedy which the said trustees, or other competent authority, may have against the secretary-treasurer, or person having been such secretary-treasurer or his sureties, or against any trustee or other person as aforesaid. R. S. O., c. 225, s. 260.

Penalty to be inflicted on trustees refusing information, etc., to auditor.

169. The trustees, or their secretary-treasurer in their behalf, shall not refuse to furnish the auditors of any accounts of a rural school district, or either of them, with any papers or information in their power, and which may be required of them relative to their school accounts, and any contravention of this section upon prosecution therefor by either of the auditors, or any ratepayer, shall be punished by fine or imprisonment, as provided by this Act. R.S.O., c. 225, s. 161; 44 Vic., c. 4, s. 110.

Penalty for delaying yearly report.

170. In case the trustees of any school district neglect to prepare and forward the annual report as provided by this Act, by the fifteenth day of January in every year, each of them shall, for every week after such fifteenth day of January, and until such report has been prepared and presented, forfeit the sum of \$5, to be sued for by the Inspector, and collected and applied in the manner provided for by this Act. R.S.O., c. 225, s. 263.

Penalty for false school reports and registers.

171.—(1) If any trustee of a public school knowingly signs a false report, or if any teacher of a public school keeps a false school register, or makes a false return, with a view of obtaining a larger sum than the just proportion of school moneys coming to such school, the trustee or teacher shall, for every offence, forfeit to the public school fund of the district the sum of \$20, for which any person whatever may prosecute him before a Justice of the Peace.

Application of penalty.

(2) The penalty, when so paid or collected, shall by the justice be paid over to the said public school district. R.S.O., c. 225, s. 264; 44 Vic., c. 4, s. 109; 48 Vic., c. 27, s. 12.

Trustees personally responsible for moneys lost.

172.—(1) The trustees of every school district shall be personally responsible for the amount of any school moneys forfeited by or lost to the school district in consequence of the neglect of duty of the trustees during their continuance in office.

(2) The amount thus forfeited or lost shall be collected and applied in the manner provided for by this Act. R.S.O., c. 225, s. 265. Application of money when recovered.

173. No person suffering from any contagious or infectious disease, or who resides in a house in which any such disease exists, shall be entitled to attend or enter any public school during the existence of any such disease as aforesaid, nor at any time thereafter, until he present to the trustees of the school he wishes to attend, a certificate of a physician that there is no longer danger of contagion or infection from his attendance, to the other pupils of the school; Provided that in rural school districts the trustees may, in the absence of a physician, admit applicants for admission without such certificate, if they are satisfied that there is no danger of contagion or infection from their doing so. And any parent or guardian of any child who knowingly sends such child to any public school in contravention of these provisions, shall be liable, upon conviction before a justice of the peace, upon the complaint of the trustees or of any ratepayer of the school, to a fine not exceeding ten dollars for each offence, or imprisonment in the common jail for a period not exceeding thirty days. 50 Vic., c. 18, s. 13. Persons suffering from contagious diseases, etc., not to attend school.
Proviso.
Penalty for contravention of this section.

TRUSTEES RESIGNING.

174. Any public school trustee may resign his office, with the consent, expressed in writing, of a majority of his colleagues. Trustees may resign.

EXECUTION AGAINST SCHOOL DISTRICTS.

175. Any writ of execution against any school district, which school district lies wholly within one municipality, may be endorsed with a direction to the sheriff to levy the amount thereof by rate, and the proceedings thereon shall be the following: Writ of execution against trustees--how endorsed.

(1) The sheriff shall deliver a copy of the writ and endorsement to the treasurer of the municipality in which such school district is situate or leave such copy at the office or dwelling house of such officer, with a statement in writing of the sheriff's fees and of the amount required to satisfy such execution, including in such amount the interest calculated to some day as near as is convenient to the day of service. Proceedings thereon; sheriff to leave statement with treasurer

(2) In case the amount, with interest thereon from the day mentioned in the statement, is not paid to the sheriff within one month after the service, the sheriff shall examine the assessment roll of the municipality in which such school district is situate, and shall in like manner as rates are struck for general municipal purposes, strike a rate on the assessable lands in said school district sufficient on the dollar to cover the amount due on the execution, with such addition to the same as the sheriff deems sufficient to cover the interest and his own fees up to the time when such rate will probably be available. In case amount not paid within one month, rate to be struck.

(3) He shall thereupon issue a precept or precepts under his hand and seal of office directed to the said treasurer, and shall by such precept, after reciting the writ and that the said trustees had neglected to satisfy the same, command the said treasurer to levy or cause to be levied such rate at the time and in the manner by law required in respect of the general municipal rates. Precept to be issued to treasurer directing levy to be made.

(4) At the time for levying the annual rates next after the receipt of such precept, the said treasurer shall add a column to the tax roll of the lands in said school district, headed, "Execution rate of A. B. vs School District of No. " (or, as the case may be, adding a column for each execution, if more than one), and shall insert thereon the amount by such precept required to be levied upon each person respectively, and shall levy the amount of such execution rate as afore- At time of levying rate next after precept, execution rate to be levied, and amount returned with

- precept to sheriff. said, and said treasurer, so soon as the amount of such execution or executions is collected, shall return to the sheriff the precept with the amount levied thereon.
- Surplus to be returned to treasurer. (5) The sheriff shall, after satisfying the executions and all fees thereon, return any surplus within ten days after receiving the same to the said treasurer for the general purposes of the said school trustees.
- Treasurer to be deemed to be officer of court with respect to such execution. (6) The treasurer shall for all purposes connected with carrying into effect, or permitting or assisting the sheriff to carry into effect the provisions of this Act with respect to such executions, be deemed to be an officer of the court out of which the writ issued, and as such shall be amenable to the court, and may be proceeded against by attachment, mandamus, or otherwise, in order to compel him to perform the duties hereby imposed upon him.
- Clauses 1 to 6 applicable to district lying within more than one municipality. (7) The above clauses, one to six, both inclusive, shall be applicable to executions against a school district lying within more than one municipality, but in such case the said sheriff shall strike a rate on the assessable lands in said school district from the assessment rolls of the several municipalities in which said school district is situate, and shall deliver to the treasurer of each of the municipalities the precept or precepts aforesaid. 52 Vic., c. 21, s. 2.

GENERAL PROHIBITIONS.

- No inspector, trustee, teacher, etc., to act as agent for the sale of books, maps, etc. 176. No teacher, trustee, inspector, or other person, officially connected with the Department of Education, or Model, Public, or High Schools, shall become or act as agent for any person or persons to sell, or in any way to promote the sale for such person or persons, of any school, library, prize or text-book, map, chart, school apparatus, furniture or stationery, or to receive compensation or other remuneration or equivalent for such sale, or for the promotion of sale in any way whatsoever. R.S.O., c. 225, s. 266.

HOW FINES AND PENALTIES MAY BE RECOVERED.

- How penalties under this Act shall be recoverable. Warrant of commitment. 177.—(1) Unless it is in this Act otherwise provided, all fines, penalties and forfeitures may be sued for, recovered and enforced, with costs, by and before any police magistrate, or justice of the peace.
- (2) If the fine, or penalty and costs, are not forthwith paid, the police magistrate or justice shall, by his warrant, cause the offender to be imprisoned for any time not exceeding thirty days, unless the fine and costs are sooner paid.
- Disposition of fines. (3) On receiving such fine or penalty the police magistrate or justice shall pay the same over to the secretary-treasurer of the school district or other party entitled thereto, except as otherwise provided in this Act.
- Summary Convictions Act to apply. (4) The provisions of the Act of the Parliament of Canada, known as the Summary Convictions Act, shall apply to all such prosecutions so far as the same are applicable. R.S.O., c. 225, s. 267; 44 Vic., c. 4, s. 117.

PROVISIONS AS TO CATHOLIC SCHOOL DISTRICTS.

- Catholic school districts covering same territory as Protestant school districts. 178. In cases where, before the coming into force of this Act, Catholic school districts have been established, covering the same territory as any Protestant school district, and such Protestant school district has incurred indebtedness, the Department of Education shall cause an inquiry to be made as to the amount of the indebtedness of such Protestant school district and the amount of its assets. Such of the assets as consist of property shall be valued on the basis of their actual value at the time of the coming into force of this Act. In case the amount of the indebtedness exceeds the amount of the assets, then all the property assessed in the year 1889, to supporters of such Catholic

school districts, shall be exempt from any taxation for the purpose of paying the principal and interest of an amount of the indebtedness of such school district equal to the difference between its indebtedness and assets. Such exemption shall continue only so long as such property is owned by the person to whom the same was assessed as owner in the year 1889.

179. In cases where, before the coming into force of this Act, Catholic school districts have been established as in the next preceding section mentioned, such Catholic school districts shall, upon the coming into force of this Act, cease to exist, and all the assets of such Catholic school districts shall belong to, and all the liabilities thereof be paid by the public school district. In case the liabilities of any such Catholic school district exceed its assets then the difference shall be deducted from the amount to be allowed as an exemption, as provided in the next preceding section. In case the assets of any such Catholic school district exceed its liabilities, the difference shall be added to the amount to be allowed as an exemption, as provided in the next preceding section.

Catholic school districts to cease to exist.

180. All arrears of taxes levied under the authority of any such Catholic school board shall be considered as part of its assets, and shall be handed over to the municipal council to be collected on behalf of the public school board.

Arrears of taxes levied by Catholic school Boards.

181. The municipal council shall have all the power provided by the Assessment Act for the collection of such arrears, the same as if they were arrears of municipal taxes.

Municipal Council to have power to collect. Repeal clause.

182. Chapter 4 of 44 Victoria, Chapters 8 and 11 of 45 Victoria, Chapter 46 of 46 and 47 Victoria, Chapters 37 and 54 of 47 Victoria, Chapter 27 of 48 Victoria, Chapters 18 and 19 of 50 Victoria, Chapter 31 of 51 Victoria; and Chapters 5 and 21 of 52 Victoria, are hereby repealed.

183. This Act shall come into force on the first day of May, A.D. 1890.

When Act to come into force

SCHEDULE A.

(Section 98.)

PUBLIC NOTICE.

Notice is hereby given that a meeting of the ratepayers within the school district of _____ No.

_____ will be held at the _____
 in the said school district, on _____ the _____ day
 of _____ A.D. 18 _____, at the hour of _____ o'clock in the
 _____ noon, for the purpose of considering the expediency of raising
 money by way of loan to _____

(Here state the purposes for which the loan is intended.)

Dated this _____ day of _____ A.D. 18 _____

A. B.,
 Secretary-Treasurer.

SCHEDULE B.

(Section 101.)

Debenture No. _____ of the School District of _____
 number _____
 The School District of _____ number _____
 promises to pay to the bearer at the _____ at _____

the sum of _____ dollars of lawful money of Canada in
 years from the date hereof, and to pay interest thereon during the cur-
 rency hereof, at the same place, at the rate of _____ per centum per
 annum, to the bearer of the coupons hereunto annexed respectively,
 and numbered with the number of this debenture.

Issued at _____ this _____ day of _____ 18
 by and under the authority of the Public Schools Act.

T. R.,
Secretary-Treasurer.

S. M.,
Trustee.

COUPON, No.

The School District of _____ number _____, will pay to the
 bearer hereof, at the _____ at _____ on the _____
 day of _____ 18 _____, the sum of _____ dollars, being
 interest due on that day on School Debenture No. _____

T. R.,
Secretary-Treasurer.

I, Armand Henry Corell, Deputy of Elias George Conklin, Esquire, Clerk of
 the Legislative Assembly, and Custodian of the Statutes of the Province of Manitoba,
 certify the subjoined to be a true copy of the original enactment passed by the
 Legislative Assembly of Manitoba, in the third session of the Seventh Legislature,
 held in the fifty-third year of Her Majesty's reign, and assented to in the Queen's
 name by His Honour the Lieutenant-Governor on the thirty-first day of March,
 A.D., 1890.

Given under my hand and the Seal of the Legislative Assembly of Manitoba, at
 Winnipeg, this first day of April, in the year of Our Lord, one thousand eight
 hundred and ninety.

A. H. CORELL,
Deputy Clerk of the Legislative Assembly of Manitoba.

CHAPTER 37.

An Act respecting the Department of Education.

[Assented to 31st March, 1890.]

- Department established. Sec. 1.
 Powers and duties of Department. Sec. 2.
 One member to sign certificates. Sec. 3.
 Advisory Board. Sec. 4.
 Mode of appointment and election. Secs. 5 to 13.
 Powers of Advisory Board. Sec. 14.
 Annual report by the Department of Education. Sec. 15.
 Orders and regulations to be laid before the Legislature. Sec. 16.
 Appointing officers. Sec. 17.
 Boards of Education to cease to hold office, etc. Sec. 18.
 Act takes effect. Sec. 19.

HER MAJESTY, by and with the advice and consent of the Legislative
 Assembly of the Province of Manitoba, enacts as follows:—

1. There shall be a Department of Education, which shall consist of
 the Executive Council, or a committee thereof appointed by the
 Lieutenant-Governor-in-Council. R.S.O., c. 224, s. 1.

2. The Department of Education shall have power :
- (a) To appoint inspectors of High and Public Schools, teachers in Provincial Model and Normal Schools, and Directors of Teachers' Institutes; Powers of Department of Education. Appointing Inspectors and other officers.
 - (b) To fix the salaries of all inspectors, examiners, Normal and Model school teachers and other officials of the Department; Fixing salaries.
 - (c) To prescribe forms for school registers and reports to the Department; Prescribing forms.
 - (d) To provide for Provincial Model and Normal schools. 44 Vic., c. 4, s. 5; R.S.O., c. 224, s. 4; Providing Model and Normal schools.
 - (e) To arrange for the proper examination and grading of teachers and the granting and cancelling of certificates. Certificates obtained outside the Province may be recognized instead of an examination. Conducting examinations of teachers.
 - (f) To prescribe the length of vacations and the number of teaching days in the year. Prescribing length of vacations, etc.
3. The Department of Education shall nominate one of its members to sign all certificates granted by the Department. One member of Department to sign certificates. Advisory Board.
4. There shall be a Board constituted as hereinafter provided, to be known as "The Advisory Board." Advisory Board.
5. Said Board shall consist of seven members. Three members shall constitute a quorum for the transaction of business. Constitution of Board. Quorum.
6. Four of the members of said Advisory Board shall be appointed by the Department of Education for a term of two years. Provided, that on the occasion of the first appointment the term of office of two of such members so appointed shall be one year. Four members to be appointed.
- 7—(1) Two of the members of the said Advisory Board shall be elected by the Public and High school teachers actually engaged in teaching in the Province. Public school teachers to elect two members.
- (2) The Department of Education shall, from time to time, divide the Province into two districts, so that the said teachers in each district may elect one member of said Board. Province to be divided into two districts for purposes of such election.
8. On or before the first day of June in each year, the Department of Education shall furnish each High and Public School teacher actually engaged in teaching with a blank form of voting paper for the purpose of voting for a member of said Board. Voting papers to be furnished.
9. Such voting papers shall be sent to one of the appointed members of said Board. Voting papers to be sent to appointed member.
10. The appointed members of the said Board shall receive and count the voting papers, and decide any questions relating thereto, and shall report to the Department of Education the names of the persons elected. Appointed members to count votes.
11. Voting papers received after the thirtieth day of June shall not be counted. The person receiving the highest number of votes, in each case, shall be elected. Voting papers must be in by 30th June.
12. The term of office of such members so elected shall be two years, and shall commence on the first day of August next after election. Term of office.
13. The seventh member of said Board shall be appointed by the University Council, by ballot, from time to time, for a term of two years. University Council to appoint one member.
14. Said Advisory Board shall have power :
- (a.) To make regulations for the dimensions, equipment, style, plan, furnishing, decoration and ventilation of school houses, and for the arrangement and requisites of school premises; Powers of Advisory Board. Equipment and ventilation of school-houses.

- Authorized text books. (b) To examine and authorize text books and books of reference, for the use of pupils and school libraries ;
- Qualification of teachers and inspectors. (c) To determine the qualifications of teachers and inspectors for High and Public Schools ;
- Admission to High Schools. (d) To determine the standard to be obtained by pupils for admission to High Schools ;
- Decide matters referred. (e) To decide or make suggestions concerning such matters as may, from time to time, be referred to them by the Department of Education ;
- Appointing examiners. (f) To appoint examiners for the purpose of preparing examination papers for teachers' certificates and for entrance admission of pupils to High Schools, who shall report to the Department of Education ;
- Forms of religious exercises. (g) To prescribe the forms of religious exercises to be used in schools ;
- Regulations for Normal, Model, High and Public Schools. (h) To make regulations for the classification, organization, discipline and government of Normal, Model, High and Public Schools. 44 Vic., c. 4., s. 5., R. S. O., c. 224, s. 4.
- To determine to whom certificates shall issue, etc. (i) To determine to whom certificates shall issue ;
- To settle disputes, settlement of which not otherwise provided for. (j) To decide upon all disputes and complaints laid before them, the settlement of which is not otherwise provided for by law.
- Annual report to be made by Department of Education. 15. The Department of Education shall report annually to the Lieutenant Governor-in-Council upon the Model, Normal, High and Public Schools, with such statements and suggestions for promoting education generally as may be deemed useful and expedient. R. S. O., c. 224, s. 5.
- Regulations and Orders-in-Council to be laid before Legislative Assembly. 16.—(1) Every regulation or Order-in-Council made under this Act, or under the Public and High Schools Acts, by the Executive Council, the Department of Education and the Advisory Board, shall be laid before the Legislative Assembly forthwith if the Legislature is in session at the date of such regulation or Order-in-Council, and if the Legislature is not in session such regulation or Order-in-Council shall be laid before the said House within the first seven days of the session next after such regulation or Order-in-Council is made.
- Regulation or order disapproved of by Legislative Assembly to be void. (2) In case the Legislative Assembly at the said session, or if the session does not continue for three weeks after the said regulation or Order-in-Council is laid before the House, then at the ensuing session of the Legislature, disapproves by resolution of such regulation or Order-in-Council, either wholly or of any part thereof the regulation or Order-in-Council, so far as disapproved of, shall have no effect from the time of such resolution being passed. R. S. O., c. 224, s. 7.
- Appointing officers, etc. 17. The Department of Education may appoint such officers, clerks and servants as may be necessary for the conduct of the business of the Department and of the Advisory Board.
- Boards of Education, etc to cease to hold office after 1st May, 1890. 18. From and after the first day of May, A.D. 1890, the Board of Education and Superintendents of Education appointed under chapter 4 of 44 Victoria and amendments, shall cease to hold office, and within three days after said first day of May, said Boards and Superintendents shall deliver over to the Provincial Secretary all records, books, papers, documents and property of every kind belonging to said Boards.
- When Act shall come into force. 19. This Act shall come into force on the first day of May, A.D. 1890.

APPENDIX "C."

No. 26.

VOTES AND PROCEEDINGS OF THE LEGISLATIVE ASSEMBLY OF
MANITOBA.

WINNEPEG, Wednesday, 5th March, 1890.

Sitting at 7.30 o'clock, p.m.

The order of the day being read for the House to resume the adjourned debate on the question which was on Tuesday last proposed, That the Bill (No. 12) respecting the Department of Education, be now read a second time, and the question being again proposed the House resumed the said adjourned debate.

* * * * *

Then, the main question being put, the House divided and the names being called for they were taken down as follows :

Yeas.

Messieurs Campbell (Souris), Campbell (South Winnipeg), Colcleugh, Crawford, Dickson, Fisher, Graham, Greenway, Harrower, Hettle, Jackson, Jones, Lawrence, McKenzie, McLean, McMillan, Martin (Portage la Prairie), Mickle, Morton, Sifton, Smart, Smith, Thomson (Emerson), Thompson (Norfolk), Winkler, Young—26.

Nays :

Messieurs Gelley, Gillies, Jerome, Marion, Martin (Morris), Norquay, O'Malley, Prendergast, Roblin, Wood—10.

So it was resolved in the affirmative.

Tuesday, 18th March, 1890.

Sitting, 7.30 o'clock, p.m.

The Hon. Mr. Martin moved, seconded by the Hon. Mr. Greenway, and the question being proposed, That the rules of the House be suspended and the Bill (No. 13) respecting public schools be now read a third time, and a debate arising thereupon, and the House having continued to sit till after twelve of the clock on Wednesday morning.

Wednesday, 19th March, 1890.

* * * * *

The main question being put, the House divided and the names being called for they were taken down as follows :—

Yeas :

Messieurs Campbell (Souris), Campbell (South Winnipeg), Colcleugh, Crawford, Dickson, Graham, Greenway, Harrower, Hettle, Jackson, Jones, Lawrence, McKenzie, McLean, McMillan, Martin (Portage la Prairie), Mickle, Morton, Sifton, Smart, Smith, Thomson (Emerson), Thomson (Norfolk), Winkler, Young—25.

Nays :

Messieurs Gelley, Gillies, Jerome, Lagimodiere, Marion, Martin (Morris), Norquay, O'Malley, Prendergast, Roblin, Wood—11.

So it was resolved in the affirmative.

APPENDIX "D."

Her Majesty's Roman Catholic subjects in the Province of Manitoba claim certain rights and privileges in relation to education, under section 93 of the Imperial

Act 30 and 31 Vic., cap 3, being the British North America Act, 1867, and under section 22 of the Act of Canada 33 Vic., cap. 3 generally known as 'The Manitoba Act.'

Section 93 of the British North America Act, 1867, reads as follows:—XCIII. 'In and for each Province, the legislature may exclusively make laws in relation to education, subject and according to the following provisions:—

(1.) "Nothing in any such law shall prejudicially affect any right or privilege with respect to denominational schools which any class of persons have by law in the province at the Union";

(2.) "*All the powers, &c., &c. (applying only to Upper Canada and Quebec).*"

(3.) "*Where in any province a system of separate or dissentient schools exists by law at the Union or is thereafter established by the legislature of the province, an appeal shall lie to the Governor General in Council, from any Act or decision of any provincial authority affecting any right or privilege of the Protestant or Roman Catholic minority of the Queen's subjects in relation to education;*

(4.) "In case any such Provincial law, as from time to time seems to the Governor General in Council requisite for the due execution of the provisions of this section is not made, or in case any decision of the Governor General in Council on any appeal under this section is not duly executed by the proper provincial authority in that behalf, then and in every such case, and as far only as the circumstances of each case require, the Parliament of Canada may make remedial laws for the due execution of the provisions of this section and of any decision of the Governor General in Council under this section."

Section 22 of the Manitoba Act, reads as follows:—

22. "In and for the said Province, the said legislature may exclusively make laws in relation to education, subject and according to the following provisions."

(1.) "Nothing in any such law shall prejudicially affect any right or privilege with respect to denominational schools which any class of persons have by law or practice in the Province at the Union.

(2.) "An appeal shall lie to the Governor General in Council from any Act or decision of the *Legislature of the Province* or of any provincial authority, affecting any right or privilege of the Protestant or Roman Catholic minority of the Queen's subjects in relation to education;

(3.) "In case any such provincial law, as from time to time seems to the Governor General in Council requisite for the due execution of the provisions of this section, is not made, or in any case any decision of the Governor General in Council on any appeal under this section is not duly executed by the proper provincial authority in that behalf, then, in every such case, and as far only as the circumstances of each case require, the Parliament of Canada may make remedial laws for the due execution of the provisions of this section, and of any decision of the Governor General in Council under this section." The words underlined in the above two sections are not in italics in the printed statutes, but are here so underlined to point out the discrepancies between the two said sections.

Preliminary.

It having been repeatedly contended that the above two clauses may be altered by the Legislature of the Province, it is necessary, before studying them upon their merits, to first lay down the proposition:

That section 93 of the British North America Act, 1867, and the section 22 of the Manitoba Act, whether considered in their nature, or as affected by other clauses of the same Acts or by other Acts, cannot be altered or repealed by the Legislature of the Province.

Considered in their nature. Two things are necessary to the existence of a state; certain public bodies, legislative, judicial and coming under the general term "institutions," and giving an organic existence to the state, and a power delegated to those bodies of exercising their proper functions, hence, all the articles or pro-

visions of a written constitution, without exception, may be divided into two classes: The first creating such public bodies or organizations, the second vesting in them certain powers.

The provisions of the first class may, or may not be, subsequently altered by the legislative authority of the state constituted, depending in this upon the intention to be gathered from the constitution as to whether it was meant that the institutions should be permanent or subject to alteration;

On the other hand, and by their very nature, the provisions of the second class, constituting invariably a delegation of powers, cannot in anyway be altered by the state, whose only prerogative is to exercise those powers within the limits and subject to the restrictions of the delegation.

This is not legal controversy, but a conclusion dictated by plain common sense.

It would be superfluous to show that the clauses, quoted above, do not create institutions organic or otherwise, but merely constitute a delegation of powers which may be wide or narrow, but surely cannot be exceeded.

Considered as affected by other clauses of other Acts.

Even if it be not repugnant to the nature of that class of provisions to which the clauses quoted evidently belong, it is submitted that the Legislature of Manitoba could not alter the said clauses.

(a.) The words, "*the constitution of the Province*," used in clause 92 of the British North America Act, 1867, giving to provincial legislatures the power to amend "from time to time * * * *the constitution of the Province*" are a clear reference to the words "Provincial Constitution" anteriorly used in the Act as the heading of chapter V. "*Provincial Constitutions*"; so that, in this respect, provincial legislatures are only empowered to amend such provisions as are contained in said chapter V.

(b.) Whatever may be of this power under the British North America Act, 1867, the powers of the legislature under the Manitoba Act are even more restricted, section 6 of 34 and 35 Victoria, chapter 28 (Imperial), reading as follows:—

6. "Except as provided by the third section of this Act, it shall not be competent for the Parliament of Canada to alter the provisions of the last mentioned Act (The Manitoba Act), subject always to the rights of the Legislature of the Province of Manitoba to alter from time to time the provisions of any law respecting the qualification of electors and members of the Legislative Assembly and to make laws respecting electors in the said Provinces."

It is therefore submitted as a conclusion, that the education clauses quoted could not be altered or repealed by the Legislature of Manitoba.

It may also be added as a matter of fact, that the Legislature has not altered, nor attempted to alter the said clause.

Having then to deal with the said sections as they are, it remains to examine them upon their merits.

THE MANITOBA ACT.

Section 22.

XXII. "*In and for the Province of Manitoba, the said legislature may exclusively make laws in relation to Education, subject and according to the following provisions:*"

This first paragraph, which is exactly similar to the first paragraph of clause 93 of the British North America Act, 1867, deals with the general power vested in the Legislature of passing educational laws subject to certain restrictions.

Now as to the restrictions:

Sub-clause 1.

(1.) "*Nothing in any such law shall prejudicially affect any right or privilege with respect to denominational schools, which any class of persons have by law or practice in the Province at the Union.*"

This sub-clause only differs with sub-clause 1 of section 93 of the British North America Act, 1867, in that the words "or practice" have been added to the former.

Nothing in any such law. These words, preceding the words "*shall prejudicially affect*" certainly convey a much stronger sense than would the words "such laws shall not prejudicially affect." This intention to restrict as much as possible in this respect the powers of the legislature, shall be noticed throughout the whole section.

Shall prejudicially affect, or "*repeal*" nor *deny*, "*abolish*," nor "*violate*," but merely "*affect*." And upon reading the debates on Confederation, wherein it appears with what anxiety and particular care this question of the schools of the minorities was dealt with—a difficulty which in fact was repeatedly on the eve of proving a stumbling block to the federative compact—one may easily realize the imperative motives which withheld from the local Legislatures the power, not to go so far as to openly and grossly violate, but even to "*affect*" rights and privileges in connection with matters which being matters of conscience are of a so delicate and respectable character. (Debats sur la Confederation, pages 18, 146, 383, 437, 851, 884, 885, 1020, and 1021.)

Any right. The Act does not say generally "the rights," which might indicate that those rights should be considered as a whole and as resulting generally from some existing educational systems; the reference to "*any right*" clearly conveys a particular sense covering any particular right.

But the question has been asked: What is a right?

Bouvier's, Wharton's, and other dictionaries may be quoted in order to prove, in the words of a well known authority, that "*where a right exists, a means must exist to vindicate and maintain it*," and that "*want of right and want of remedy are reciprocal*." Going further it may be argued, as an applicant to the present case, that as prior to the union, there existed in Manitoba no educational law and consequently no legal remedy to enforce and vindicate educational rights, then, such as might be so called educational rights, were in fact no rights at all.

In order to answer this objection a distinction must be made. The sub-clause now under consideration mentions two kinds of rights: (10) rights by law, and (20) by practice.

10. The quotations above referred to are all taken from law dictionaries, and only apply to rights by law. There having been before the union no educational law, it must here be admitted that there then existed no legal means of maintaining such as are here called educational rights, although there was surely at least, under the laws and regulations of Assiniboia concerning public peace and order, a remedy to vindicate and punish a violation of most of those rights.

20. But, which is more important, the statutes also use the words "rights by practice" and to these, the definitions given by dictionaries of law terms, should not apply. It is submitted that where "*practice*" is so recognized by statute, it would be unreasonable to expect that a special sanction should have been provided by law at a time when the statute clearly infers there was no law.

But the question may fairly be put: What is a right held by practice, or right by practice?

The admission is here made that the connection between the words "*right*" and "*practice*" does not fully satisfy the mind. Although there is nothing repugnant between them, yet those terms, as connected, do not perhaps exactly fit each other.

But what is to be the conclusion? Is it that those words have absolutely no meaning, and must be necessarily taken as non-operative?

It is here submitted that, unless the only conclusion to be arrived at is manifestly absurd, each word of a statute should be credited with some meaning, and supposed to have some effect. If one cannot gather from the law a meaning fully satisfactory to the exigencies of a strictly-trained legal mind, the next best thing should be looked for—and this should be good enough for practical purposes, if it be not repugnant to common sense.

Now, it is not repugnant to common sense to admit the interpretation which naturally suggests itself, *i.e.*, that the Act recognizes as a source or fountain of rights, or elevates to the dignity of rights as we now conceive them, those constant methods of administration and those particular relations and dealings between the members of a community, which went to form a constant usage, or custom, or practice, at a time when, in this respect, there was practically no law in the land.

It may be disputed that such rights by practice as the statute contemplates, existed in Manitoba prior to union; but it *cannot be said* generally that "*rights by practice*" mean nothing, when the statute, using such words, evidently recognizes such rights.

On Privilege.—This word implies an immunity or exemption. The same objections may be raised here as to the want of *legal* immunity in connection with privileges by practice, as were raised as to the want of *legal* remedy in connection with rights by practice. The answer given above would here again apply.

With Respect To.—Not "*any right to denominational schools*" which might indicate that this right would be sufficiently protected if the general principles of denominational schools were respected; but "*any right with respect to denominational schools*," showing that it was intended to shield not only the rights attaching to the essential principles of denominational schools, but even those rights which are more remotely connected therewith, and the suppression of which would not necessarily entail the destruction of the system itself.

To Denominational Schools.—To what extent denominational schools existed in Assiniboia is shown further on. It may, however, be at once pointed out that a school where no denominational teaching is given would not be a denominational school.

Which Any Class of Persons.—These classes are also further on enumerated.

Have By Law.—If this last word has to be taken in the meaning of written law, no special claim is laid thereunder in this memorial. If to be taken as covering usage or custom, it shall be sufficient to consider the word "*practice*" following which is much wider.

Or Practice.—"*Law or practice*" are words seldom used in legal phraseology. The usual terms are "*written or unwritten law*," "*law or custom*," "*law or usage*." The departure here made from the usual terms, custom and usage, and the adoption of the rather unusual word practice, would then seem to indicate that this last term should be interpreted in its strict sense in opposition to "*custom*."

"*Custom*," of course, is a certain practice, but a practice receiving, upon certain conditions, some recognition by the law. Such are the customs and usages of certain trades in certain parts of England. "*Practice*," on the contrary, by itself implies no idea of law or of recognition by the law; it merely results from the assemblage of certain usual facts as facts; and in this sense it should be considered.

That the word "*practice*" was introduced in this sub-clause, not *a majore cautela*, but in order to cover and recognize the well known state of things as existed prior to union in Assiniboia, is shown.

A. By the fact that in all the Acts (except the Manitoba Act) providing after 1867 for the entry of new provinces into Confederation, sub-clause 1 of clause 93 of the British North America Act (wherefrom the word "*practice*" is omitted) is declared to be applicable to such provinces: whilst in the case of the Manitoba Act, and in this case only, the said sub-clause has been amended by the addition of the word "*practice*." Why was not this word also made to apply to the British Columbia and Prince Edward Island Acts, both passed after the Manitoba Act?

B. By the fact that all those portions of British North America (except Manitoba) which now form the Dominion, having been provinces before their entry, had regularly organized legislatures having the power to legislate in as full measure, whilst Manitoba, not being a province before its union, could pass no law in the same sense as the other provinces, and, in fact, only passed such laws as amounted to mere regulations of police, general protection and public order. When the circumstances of Manitoba, before its union, were so different from those of the other provinces before their union, how could the same enactment have been used? And

when a different enactment is made, fitting exactly (as the word "practice") such particular circumstances, how can it be said that such enactment should not be taken in the precise and strict sense, making it so specially applicable?

C. By the New Brunswick schools case.

Although the legal struggle in connection with this case only commenced in 1872, the objectionable features of the question were well known at the time of the passing of the Manitoba Act. The Common Schools Act which was passed in 1871, and gave rise to the troubles, was a first time introduced in the New Brunswick Legislature in 1869 and again in 1870, and defeated on both occasions. (Journals New Brunswick Legislature, April, 1869, and February, 1870.)

As far back as 1869 the question created very considerable agitation. (Sessional papers of Canada, Vol. x, No. 9, 1877, page 360, par. 3, and page 363, par. 1.)

Now, upon what did the whole question hinge?

The Sessional Papers, quoted fully, answer this question:—

"The Act complained of (the Common Schools Act, 1871) is an Act relating to common schools, and the Acts repealed by it apply to parish, grammar, superior and common schools." No reference is made in them to separate, dissentient or denominational schools, and the undersigned does not, on examination, find that "*any statute of the province exists establishing such special schools.*" (Report of Minister of Justice, page 36 L.)

"In order to render any law of a provincial legislature inoperative under the 1st sub-section of Section 93, it is requisite that there should in such province have been at the union, denominational schools with respect to which a certain class of persons had rights or privileges, and that those rights or privileges should have been secured *by law*.

"This would seem to lead at once to the consideration of the laws in force in New Brunswick at the union, for the purpose of determining whether the Roman Catholics had by such laws any rights or privileges with respect to denominational schools." (Memo. of Executive Council of N.B., page 377.)

"Inasmuch, then, as in New Brunswick at the union, and at the time of the passing of the Common Schools Act, 1871, the Roman Catholics had *by law* no rights or privileges with respect to denominational schools, nothing in the Common Schools Act can have deprived them of rights or privileges which they did not previously enjoy.

"It is stated that under the school law in force at the union and up to the passing of the Common Schools Act, 1871, the Catholics were enabled, whenever their numbers were sufficiently large, to establish schools in which a good religious and secular education was afforded.

"No such right existed *under the law*; nothing in the Parish Schools Act of 1858 prevented the establishment of private schools *outside of the law*, as nothing in the Common Schools Act, 1871, prevents the establishment of similar schools. An irregular and defective administration of the law might tolerate illegal practices, and allow parties to derive unwarrantable advantages *in violation of the law*; but privileges enjoyed in violation of the law cannot give rights *under the law*." (*Idem*, page 385.)

"We have now to determine whether any class of persons had, *by law* in this province, any right or privilege with respect to denominational schools at the union which are prejudicially affected by the Common Schools Act, 1871. This renders it necessary that we should with accuracy and precision ascertain exactly what the state of the law was with reference to denominational schools * * * " (Judgment of Supreme Court of New Brunswick, page 411.)

"The Parish Schools Act, 1858, clearly contemplated the establishment throughout the province of public common schools for the benefit of the inhabitants of the province generally; and it cannot, we think, be disputed that the governing bodies under the Act were not in any one respect or particular denominational." (*Idem*, page 411.)

"The schools established under this Act (1858) were then public, parish or district schools, not belonging to or under the control of any particular denomination, neither had any class of persons nor any one denomination, whether Protestant or Catholic, any rights or privileges in the government or control of the schools, that did not belong to every other class or denomination, in fact to every other inhabitant of the parish or district; neither had any one class of persons or denomination, nor any individual, any right or privilege to have any peculiar religious doctrines or tenets exclusively taught, or taught at all in any such school. What is there, then, in this Act to make a school established under it a denominational school, or to give it a denominational character?" (*Idem*, page 412.)

"The simple question for solution is: does the Common Schools Act, 1871, prejudicially affect any right or privilege with respect to denominational schools, which any class of persons had by law in the Province at the Union." (*Idem*, page 422.)

"There were several denominational schools in existence at the Union, such as the Varley School, in St. John, the Sackville Academy, the Madras School, and the like; but they are not touched by the Common Schools Act, 1871, they remain in the enjoyment of all the rights they had at the Union." (*Idem*, page 423.)

The New Brunswick case may then be summed up as follows:

1. There existed by law in New Brunswick, prior to the Union, certain denominational academies; but the Common Schools Act, 1871, applying only to common schools did not affect such academies.

2. Although such existed *by practice*, no denominational common schools existed *by law* in New Brunswick prior to the Union nor at any other time, so that the Common Schools Act, 1871, in providing that "all schools shall be non-sectarian," only repeated in this (far from violating it) what had always been and was yet the law.

In one word the claims of the Roman Catholics of New Brunswick fell short from the fact that the British North America Act does not recognize "practice prior to Union" as a source of rights and privileges.

But this word "practice" has been inserted in the corresponding clause of the Manitoba Act, and it is submitted that it was so inserted clearly in order to obviate difficulties similar to that of the New Brunswick case.

This comment of the word "practice" closes the considerations on the first sub-section.

SUB-SECTION 2.

The first discrepancy between this sub-section and the British North America Act, 1867, lies in the suppression in the former of the three first lines to be found in the latter.

The first three lines read as follows:—

3. "Where in any province a system of separate or dissentient schools exists by law at the Union or is thereafter established by the Legislature of the Province,"—

The British North America Act, having to provide in a general clause for the different circumstances of the Provinces which were then entering and might later on enter Confederation, very properly used the alternate proposition "where—or where—,"

But in the Manitoba Act, providing for the immediate entry of one Province, the past circumstances of which were either one way or the other, it is clear that the same form of an alternative proposition could not logically be used.

But the question then arises: Does the absence of some other form of alternative proposition in sub-clause 2 of the Manitoba Act debar the citizens thereof from appealing to His Excellency in Council, on the one hand upon grounds of rights existing by law before the Union, and on the other hand upon grounds of rights resulting from legislative Acts passed thereafter?

The answer here submitted is in the negative.

The Manitoba Act provides for an appeal from "any Act or decision affecting any right or privilege" in the widest possible terms.

Again by the British North America Act *all* the Provinces (whether originally or subsequently incorporated to Confederation) enjoy this most essential right of an appeal from any Act or decision affecting any right or privilege in connection with separate or dissentient schools established by the legislature after the Union.

Manitoba would be the only Province debarred in this respect from this essential right of appeal. As an example: In the event of the local executive having arbitrarily administered and violated, say a year ago, the (denominational) Schools Act of 1881, the Roman Catholic minority of Manitoba would have been the only minority in Confederation debarred from an appeal under such circumstances.

This is repugnant, and more so as the Manitoba Act was passed to extend and continue (and not to curtail in any sense, especially not in its general provisions) the British North America Act, 1867.

But more, sub-clause 2 of the Manitoba Act is more definite, much clearer and perhaps stronger than the corresponding sub-clause of the British North America Act.

When the Roman Catholics of New Brunswick, under sub-clause 3 of the British North America Act, appealed to the Governor General in Council from the Common Schools Act, 1871, it was contended by the Executive Council of that Province (same Sessional Papers, page 387) that the words from any act or decision of any provincial authority rather pointed to matters of administration, as for instance, to the acts or decisions of the Executive authority.

This point has never been settled, so that in this respect the British North America Act is yet somewhat under a cloud.

But in the case of Manitoba care has been taken to dispel such ambiguity, and certain words have been added to sub-clause 2 of the Manitoba Act, which reads: "From any Act or decision of *the Legislature of the Province*, or of any provincial authority."

It is most remarkable indeed that, according to the reports of the case, but two slight additions to clause 93 of the British North America Act (being "practice" in paragraph 1, and *of the Legislature of the Province*, in sub-clause 3) should have been needed to make the pretensions of the Roman Catholics of New Brunswick admittedly unassailable on all grounds, and that the addition of these very words in the Manitoba Act are the *only* discrepancies between this Act and the British North America Act.

SUB-SECTION 3.

Nothing shall be said of this sub-section, only that it seems to have been intended as a sub-division of sub-clause 2.

Before closing these considerations upon this part of the law, it may be well, in order to show in what spirit the same was enacted by the Imperial Parliament, to quote the words pronounced by the Earl of Carnarvon in the House of Lords (19th February, 1867), when the educational clause of the British North America Bill was under discussion.

His Lordship says:—

"Lastly, in the 93rd clause which contains the exceptional provisions to which I referred, your lordships will observe some rather complicated arrangements in reference to education. I need hardly say that that great question gave rise to nearly as much earnestness and division of opinion, on that, as on this side of the Atlantic. This clause has been framed after long and anxious controversy, in which all parties have been represented, and on conditions to which all have given their consent.

"It is an understanding, which as it only concerns the local interests affected, is not one that Parliament would be willing to disturb, even if in the opinion of Parliament it were susceptible of amendment, but I am bound to add, as the expression of my opinion, that the terms of the agreement appear to me to be equitable and judicious. For the object of the clause is to secure to the religious minority of one Province the same rights, privileges and protection which a religious minority of another Province may enjoy. The Roman Catholic minority of Upper Canada,

the Protestant minority of Lower Canada, and the Roman Catholic minority of the Maritime Provinces, will thus stand on a footing of entire equality. But, in the event of any wrong at the hand of the local majority, the minority have a right to appeal to the Governor General in Council, and may claim the application of any remedial laws that may be necessary from the Central Parliament of the Confederation."

Having then endeavoured to show that any act violating such rights as may have been consecrated by practice prior to the Union, would be null; and that any act violating such rights and privileges as may have been established or recognized by laws after the Union, would be subject to an appeal to the Governor General in Council, it is now proper to ascertain, 1st. What was the practice followed *prior* to Union? 2nd. What acts have been passed *after* Union, and what rights and privileges may have resulted from such practice and such acts?

PRACTICE PRIOR TO UNION AND RIGHTS AND PRIVILEGES THEREUNDER.

The correspondence of Monseigneur Plessis, Bishop of Quebec, that of Earl Selkirk, of Monseigneur Provencher and of Monseigneur Taché, Bishops of St. Boniface, will illustrate the condition of education in the Red River settlement long before the Union.

As far back as 1819, Mr. (since Bishop) Provencher opened at St. Boniface a school where catechism and reading were taught, and the following year, Latin elements were added to the curriculum.

On the 2nd day of July, 1825, the chief factors of the Hudson Bay Company, assembled in Council at York Factory, passed the following resolution:—

Great benefit being experienced from the benevolent and "indefatigable exertions of the Catholic Mission at Red River, in promoting the welfare and *moral and religious instruction of its numerous followers*; and it being observed, with much satisfaction, that the influence of the Mission under the direction of the Right Reverend Bishop of Juliopolis, has been uniformly directed to the best interest of the settlement and of the country at large, it is resolved: That, in order to mark our approbation of such laudable and disinterested conduct on the part of said mission, it be recommended to the Hon. Committee, that a sum of fifty pounds per annum be given towards its support, &c., &c."

In 1829, a school for girls was established at Saint Boniface.

In 1838, an industrial school conducted by experts from Quebec, and where sewing, knitting and weaving specially were taught, was also established at Saint Boniface.

The arrival of the sisters of Charity in 1844 marks the beginning of more improved schools for girls in the Colony.

The actual College of Saint Boniface and Ladies' Academy, were also founded long before the Union. But it is better to invoke upon this matter the authority of public documents, and the following quotations were taken from a Narrative of the Canadian Red River Expedition of 1857 and the Assiniboine and Saskatchewan Exploring Expedition of 1858, by Henry Youle Hind, M.A., F.R.G.S., Professor of Chemistry and Geology in the University of Trinity College, Toronto. (London, Longman, Green, Longman, and Brothers, 1860.)

The expedition was organized and despatched by the Canadian Government, and the report was of course made officially.

Under the title "The Missions at Red River" chapter 9 of the "Narrative" begins thus;—

"There are three denominations in Assiniboia; Church of England, Presbyterian, and Roman Catholic."

Further (page 194) it says:—

"In 1856, the census, according to religion, stood thus:

Roman Catholic, 534 families, 3 churches.

Episcopalian, 488 families, 4 churches.

Presbyterian, 60 families and 2 churches.

It will be found important later on, to quote the following from pages 208 & 209 :—

“There is a distinct and well preserved difference in faith between the populations of the different Parishes into which the settlement is divided. Some are almost exclusively Protestant, others equally Roman Catholic. In the Parish of St. Norbert there is not one Protestant family, but 101 Roman Catholic families. In the Parish of Saint Boniface there are 178 Roman Catholic families and five Protestant; so also in the Parish of Saint Francois Xavier on the Assiniboine, there are 175 Roman Catholic to three Protestant families. On the other hand, in the Parish of St. Peter, there are 116 Protestant to two Roman Catholic families; and in the Parishes of Upper and Lower Saint Andrews there are 206 Protestant to eight Roman Catholic families.”

Under the heading “Education in the settlement” and sub-heading “Condition of Education at Red River,” chapter 10 begins thus :—

“Education is in a far more advanced state in the Colony than its isolation and brief career might claim for it under the peculiar circumstances in which the country has been so long placed.”

“There are seventeen schools in the settlement, generally under the supervision of the ministers of the denomination to which they belong.”

Further on, page 215 :—

“The Roman Catholic schools are three in number, one of them occupying a very spacious and imposing building near the church of Saint Boniface, and providing ample accommodation for female boarders.

“All of the foregoing establishments are independent of the Sunday schools, properly so called, in connection with the different churches.”

Speaking of the Church of England Schools, and quoting from a letter from His Lordship the Bishop of Rupert's Land, the report adds (pages 216, 218 and 219) :—

“Within these boundaries the schools connected with the church of England are thirteen. The thirteen are exclusive of the two higher academies for young ladies and for boys. In the collegiate school, many of the pupils make very good progress. The sources of income vary much; ten out of the thirteen schools are connected with the Church Missionary Society. The model training master is entirely paid by them, and also the masters of the pure Indian schools. In the other schools, about one-half may be paid by the Society, sometimes less, and *the rest made up by the parents of the children.*”

“The sum paid by the parents is 15s. a year; where Latin is taught, one pound. In some parishes they prefer to pay the pound, or 30s. a family, and to send as many as they choose for that sum.”

“The parochial school connected with my own church is equal to most parochial schools which I have known in England.”

Speaking later of Presbyterian schools, the narrative quotes a letter from Rev. John Black, a Presbyterian Minister at Red River, from which the following passages (pages 219 and 220) are extracted :—

“First, then, as to the school: this is entirely supported by the people of the district, or rather *by those of them who send their children to it.*”

“You are aware that *we have no public school system in the colony, and this, like the rest, is therefore essentially a denominational school.*”

On the subject of Catholic schools, the report similarly quotes a letter from His Grace the Bishop of Saint Boniface, parts of which (220 and 221) read as follows :—

“The parishes on the banks of Red River and the Assiniboine are four in number; Saint Boniface, Saint Norbert, Saint-Francois-Xavier and Saint Charles. Fifty-eight children receive education in the school of the Brothers of the Christian Doctrine, in the parish of Saint-Boniface. In the convent belonging to the Sisters of Charity, commonly known in Canada as the Grey Nuns, twenty young ladies are boarded, and receive an excellent education, suitable to their station in life. Besides the boarders, the Sisters maintain and educate fifteen poor orphan girls, and keep a

day school for the benefit of the poorer portion of the parishioners. In the parish of Saint-Norbert, thirty-one boys and twenty-nine girls attend the schools kept by a priest and the Sisters of Charity. In the parish of Saint-François-Xavier, thirteen boys and twenty-six girls receive instruction from the Sisters of Charity. In the parish of Saint Charles there is no school or chapel."

"The truth is that, but for the unselfish zeal of some who devote themselves without fee or earthly reward to this arduous and meritorious task, it would be absolutely impossible to keep up the schools. So far scarcely one child in ten has paid for his schooling, although *the charge does not exceed ten shillings per annum.*"

It is then submitted, as a matter of fact, that in Assiniboia, prior to union:—

1st. There were schools.

2nd. The schools (exclusive of Sunday schools) were either elementary or collegiate, the former being by far the more numerous.

3rd. All the schools were denominational, being Church of England, Presbyterian, or Roman Catholic.

4th. They were denominational in the sense that they were the property of their respective denominations, maintained for their respective benefit and with their respective resources, managed by their respective representatives, and attended respectively by their children.

5th. All the schools were denominational in this other and essential sense that they imparted the particular religious teachings of their respective denominations, without which they would not have been denominational.

6th. The schools were (page 214) "generally under the supervision of the ministers of the denomination to which they belonged," and this was invariably so for Roman Catholic schools.

7th. The children of the one denomination, and more strictly so for Roman Catholics, attended only the schools of their respective denomination, and in fact, by the grouping of the different elements of the population (page 203), it could hardly be otherwise.

8th. The people contributed to the schools of their respective denominations and to those only.

It would of course be unreasonable to claim to-day under the statute, a system of schools which would be, in its most minute details, an absolute reproduction or copy of the system existing by practice prior to Union.

But in this system as sketched above, is found the application of certain principles constantly held as essential by Roman Catholics, and inseparable from what may be fairly termed a system of denominational schools.

Leaving, then, the lesser features aside, the Roman Catholic subjects of Her Majesty in Manitoba, claim to-day as resulting from the practice followed prior to Union, the following essential rights and privileges with respect to education:—

1st. The right to establish through their due representatives as Catholics (whether an appointed or elected Catholic board or Catholic committee or otherwise) —or that, the state do so establish, wherever needed for the educational advancement of the Roman Catholic population and subject to certain reasonable requirements as to the number of the Roman Catholic population of school age, Christian Schools; *i.e.*, schools where, alongside with secular branches, the principles of christian morals and religious truths are fully taught.

2nd. The right to determine through their representatives as aforesaid, or that the state do determine, subject to their approval, the particular character of such principles of morals and religious truths to be taught in such schools, and that the same apply to the selection of books and authors on those matters which, although secular, may have, (as history) some influence on the religious training of the pupil.

3rd. The right that the moral and religious training aforesaid, as well as the particular secular branches above referred to, be taught by professors fully competent in the spirit and sense of the preceding paragraph; and, in order to attain that end, that such teachers be certificated by the Roman Catholic representatives as

aforesaid, or by the State, upon an examination to be determined by the Roman Catholics through their representatives as aforesaid, as far at least as the matters above mentioned are concerned.

Provided always that such right be not incompatible with certain regulations of a general, fair and undenominational character which the State may make to enhance the general efficiency of, and determine a general standard for all the schools of the Province.

4th. The privilege of being free, under all circumstances from compulsory attendance at schools other than such as are established, regulated and managed as aforesaid.

5th. The privilege of being free under all circumstances from any compulsory contribution to any other school than as aforesaid.

THE LAW AFTER THE UNION AND RIGHTS AND PRIVILEGES CLAIMED THEREUNDER.

Leaving aside the two educational Acts passed at the last Session (February and March, 1890) and here complained of, the Acts passed by the Legislature of Manitoba respecting education are—34 Vic., cap. 12 (1871); 42 Vic., cap. 11 (1879); cap. 62 of Con. Stat. (1880); and 44 Vic., cap. 4 (1881).

Although, besides these, some twenty amending Acts have been passed in the course of twenty years, yet, it may strictly be said that the same principles have constantly been recognized and consecrated ever since 1871, and that in no instance has an attempt been made in the legislature to curtail the rights enjoyed by the Roman Catholic population of Manitoba.

Taking then, the Manitoba Schools Act of 1881 (44 Vic., cap. 4) which was in force at the time of the passing of the two Acts here complained of, the general principles of the system existing by law since 1871 up to March, 1890, may be enumerated as follows:—

1st. A Board of Education composed of Protestants as Protestants and of Catholics as Catholics (Sec. 1).

2nd. The two sections of the said Board, one to be Protestant composed of the Protestant members, and one Catholic composed of the Catholic members (Sec. 5).

3rd. Each section having power: (a) to control and administer its own schools and to pass by-laws for the administration and general discipline thereof, and for the carrying out of the provisions of the law; (c) to choose all books, maps and globes to be used in its schools, provided that all books concerning religion and morals be first approved of by the competent religious authority; (e) to pass by-laws respecting the formation and alteration of school districts under its control. (Sec. 5.)

4th. One Protestant member of the Board appointed as Superintendent of the Protestant section, and one Catholic member of the Board appointed as Superintendent of the Catholic section (section 9), each Superintendent being the chief executive officer of his section, and being entrusted with the general supervision of the schools of such section. (Sub-section B.)

5th. School districts to be formed according to by-laws passed by the said sections (Section 5 amended by 47 Vic., cap. 37, Sec. 1).

6th. School Trustees to be bodies corporate under the name "The School Trustees for the Protestant School District of _____" or "The School Trustees for the Roman Catholic School District of _____" (Sec. 34 amended by 43 Vic., cap. 37, sec. 53.)

7th. None but Protestants to be elected as Trustees for and qualified to vote in Protestant School Districts, and none but Catholics to be elected as Trustees for, and qualified to vote in Catholic School Districts. (Sec. 30 amended by 47 Vic., cap. 37, secs. 5 and 7, sec. 30; sec. 53.)

8th. Teachers in the schools of one section to be first recognized or certificated by such section. (Sec. 5; sub-sec. B.)

9th. Inspectors appointed by each section for its particular schools. (Sec. 5; sub-sec. D.)

10th. No Protestants compelled to pay for Catholic schools, and no Catholics compelled to pay for Protestant schools. (Sec. 30.)

11th. By-laws passed by School Trustees concerning compulsory attendance to be first approved of by the proper section. (Sec. 101.)

12th. The Legislative school grant annually divided between the two sections upon the basis of their respective population of school age. (Sec. 34.)

Her Majesty's Roman Catholic subjects in Manitoba claim under the laws passed after the Union, as above summarized, the same rights and privileges in relation to education as have been claimed and specified in the preceding division under practice prior to Union, adding thereto the following:—

(a.) The right not only that they shall not be interfered with by the law in the sense that the law does not interfere with private enterprise not contrary to public order, but also to have a status before the law, or to hold under the law the essential powers for the carrying out of the principles aforesaid, whether such powers be vested in a Catholic section of education and Boards of Catholic Trustees as up to the present, or in other bodies equally representative.

(b.) The right for such Catholic School Districts as existed at the passing of the two Acts here complained of, to continue in their legal existence hereafter, with such powers as they possessed and subject to such regulation of the Catholic section as existed at the time of the passing of the two said Acts here complained of.

THE TWO ACTS COMPLAINED OF VIOLATE THE RIGHTS HEREINBEFORE SPECIFIED.

It may be first remarked that the Public Schools Act complained of does not merely repeal all Acts or parts of Acts contrary to its dispositions (which might possibly be interpreted as yet allowing some parts of the denominational system to continue in existence); but that clause 132 thereof repeals *in toto* and specifically all the then existing Educational Acts.

The Roman Catholic minority is then deprived of all such rights and privileges as they possessed under "The Manitoba Schools Act, 1881," unless such rights and privileges are re-enacted in "The Public Schools Act" complained of.

Every Section of the Manitoba School Act points out clearly that the system thereunder was strictly denominational even in its most minute details. This Act, and the system at the same time, has been abrogated. Now is there one single clause in the Public Schools Act re-establishing such system either wholly, or at least in some of its essential principles? Surely not.

The Roman Catholic minority, represented by the Catholic section of the Board of Education and by their Boards of Catholic trustees, had under the Manitoba Schools Act, a status recognized by law; and they held from this law and could exercise under the sanction of the law, the powers necessary to the carrying out of their schools. The Manitoba Schools Act giving them such powers, is repealed. Now, what clause of the common Schools Act replaces them in such status, and re-vests in them such powers?

Roman Catholics where sufficiently numerous, had under the Manitoba Schools Act the right to organize themselves in Roman Catholic school districts, and to erect and enjoy therein a denominational Roman Catholic school; and they held from the law, through their trustees the necessary powers for the management of such schools; power to sue and be sued, to assess and collect under the sanction of the law, not only as citizens but as a public body.

Now, under the Common School Act, can Roman Catholics hereafter establish denominational schools recognized by law? How can a Catholic Board or any other Catholic educational body be established and enjoy the usual rights of corporate bodies? How can they assess and collect under the authority and protection of the law?

It may perhaps be said, "Roman Catholics had formerly the right to establish and manage Roman Catholic schools, and they have the right now if they wish to exercise it as a matter of individual and private enterprise." As well repeal a private Act incorporating (say) a milling company, and say to the shareholders thereof; "You have yet the right to carry on milling operations as a matter of

private and individual enterprise; you consequently enjoy the same rights as before." It is clear that in both cases, a recognition by the law and the enjoyment of corporate powers are in themselves most essential and precious rights and privileges.

Here the Public School Act violates, not only the educational rights of Roman Catholics, but also their most elementary rights of property.

Sections 179 and 180 of the Public School Act, provide that where, before the passing of the Act, a Roman Catholic school district was established covering the same territory as any Protestant school district, then, upon the coming into force of the Act, all the assets of the Roman Catholic school district shall belong to, and the liabilities thereof be paid by, the public school district.

Thus in the city of Winnipeg, which is covered as well by a Protestant as by a Catholic school district, the arrears of taxes, buildings and equipments of the Catholic trustees—who have no debt—shall, upon the coming into force of the Act, become the property of the public school district.

Further, as the words "covering the same territory" above used, may be interpreted as applying not only to the case where a Protestant and a Roman Catholic district are comprised within the same limits, but also to the case where one district covers part of another, (which would apply to the much greater number of Roman Catholic school districts) then, if such interpretation be good, the property of the majority of the now existing Catholic districts shall, upon the coming into force of the Act, become the property of the public school district.

The Roman Catholics having always had the property of their schools, this is evidently a violation of their rights under practice prior to Union, as well as of their rights under the law passed after the Union.

The general rule is, that when an act is repealed, all things lawfully done thereunder remain good and binding, and all bodies lawfully constituted thereunder continue in existence. Thus, the town of St. Boniface, incorporated by letters patent under "The Towns Corporation Act," continues in existence, although such Act has been repealed.

Can it be said that, although the Manitoba Schools Act is repealed, the Roman Catholic School Districts existing thereunder are yet allowed by the Public School Act to continue in existence? It is submitted not.

1. *Certain Roman Catholic school districts are wiped out.* Section 178 and 179 of the Public Schools Act provide: That where, before the passing of the Act, Roman Catholic school districts have been established, covering the same territory as any Protestant school district, then, upon the coming into force of the Act, such Catholic school district shall cease to exist.

The city of Winnipeg being for one, in that case, as aforesaid, it is evident that this clause means the abolition at least of the Roman Catholic schools of that city.

2. The greater number of Roman Catholic school districts are wiped out. As the words "covering the same territory" used in the third line before last of the preceding paragraphs, may be interpreted as applying, not only to the case where a Protestant and a Roman Catholic district are comprised within the same limits, but also to the case where one district covers part of another (which applies to the greater of Roman Catholic school districts in the Province), then, if such interpretation be good, the greater number of Roman Catholic school districts are abolished by the Public Schools Act.

3. All the Roman Catholic school districts of the Province are virtually abolished.

Section 3 of the Public Schools Act provides that; All Protestant and Catholic School Districts existing when the Act comes into force shall be subject to the provisions of the Act.

It cannot be said that the words "subject to provisions of the Act" here mean "Subject to such provisions as are specially liable to such districts." As there are no such provisions in the Act made specially applicable to Protestant and Roman Catholic districts, not even for the purpose of wiping them out, then all such districts would remain in existence; and there being now in Manitoba but two classes of

school districts; the Protestant and the Roman Catholic, covering pretty well the whole of the Province, then the Act would be inoperative, as applying to nothing, unless it be contended that it intends to establish Public School districts without disturbing either Protestant or Catholic districts, which is absurd from the reading of the Act.

The words "Subject to the provisions of this Act" then mean "Subject to the general provisions of the Act."

One of these provisions being (Sec. 3) that all Public Schools shall be non-sectarian, it is evident that all Protestant and Roman Catholic Schools are abolished, and turned into Public non-sectarian schools.

To abolish all Roman Catholic Schools and turn them into non-sectarian schools is surely to deprive them of rights and privileges which they enjoyed with respect to denominational schools by practice at the Union, as well as of those rights relating to separate schools recognized by the laws passed after the Union.

The effect of the clauses above referred to is to deprive the Roman Catholic minority of the rights they enjoyed both before and after the Union. But sections 89 and following of the Public Schools Act go further; they imply a compulsion, and directly violate the privileges of Her Majesty's Roman Catholic subjects enjoyed both before and after the Union.

Before Union, the practice was that Roman Catholics supported Roman Catholic schools and these only, and the same principle is confirmed by clause 30 of the Manitoba School Act which provides that: "In no case shall a Protestant ratepayer be compelled to pay for a Catholic school, nor a Catholic ratepayer for a Protestant school."

Now, clause 89 and following, of the Public Schools Act, provide for compulsory assessment of all the property in the public school district; and Section 93 provides that: "The taxable property in a municipality for school purposes, shall include all property liable to municipal taxation."

It may be further remarked that as religious exercises in public schools (Section 6), teachers (Section 127), teachers' certificate (Section 31), inspectors (135) and in fact the whole working of the Public Schools Act, is subject to the control and management of a Department of Education and an Advisory Board the creation of which is not provided for in the said Public Schools Act, the provisions relating to such matters may be more or less objectionable, according to the nature and composition of such Department of Education and Advisory Board. Considering the Public Schools Act by itself, the provisions above referred to are found objectionable by Catholics at least as being a departure from their rights to manage their schools through persons representing their religious convictions, and as offering no guarantee that their conscientious scruples in the teaching of their children shall be respected.

If clause 18 had been omitted therefrom, it could hardly be said that the "Act respecting the Department of Education" is *ultra vires* as violating the educational rights and privileges of Roman Catholics.

The Legislature evidently has the right to establish in the province a system of public schools, provided the same does not interfere with Roman Catholic schools.

In view of the establishing later on such a system of public schools, the Legislature has evidently the further right to create a Department of Education and Advisory Board or such other body as may be thought proper, for the administration and management of such public schools.

Leaving aside clause 18, the Act does not seem to go further, and the fact of providing for the management of Provincial, Model, Normal, and Public Schools does not at all imply the abolishment of Protestant and Roman Catholic Schools.

But section 18 provides for the extinction of the Board of Education (and consequently of the Catholic section) and substitutes nothing in lieu thereof for the working of Roman Catholic Schools—Roman Catholics are hereby deprived of that organization which they had under the Manitoba Schools Act, deprived of all educational organization, and in fact left in the impossibility of carrying out any system of schools as a system.

More, all the property of the Board (and consequently that of the Catholic section) is ordered to be delivered up to the Provincial Secretary.

It is submitted that the Catholic section cannot be so deprived of its property.

If it is represented that the Roman Catholics are not left without educational organization by the abolition of the Catholic section inasmuch as the effect of said clause 18 is to substitute the Department of Education "and the Advisory Board" in lieu of the said Catholic section, then it is submitted that the said Department and Board in the composition of which it is not provided that a single Roman Catholic shall enter, cannot be acceptable to Roman Catholics, and that their establishment for the conduct and management of all the schools of the Province is a violation of the right possessed by Roman Catholics both before and after Union to manage and administer their own schools through persons or bodies representing their religious convictions.

The Act respecting the Department of Education is also complained of, upon the same grounds as above, inasmuch as it may affect the Roman Catholic Normal Schools of the Province.

NOTE.—For copy of the Manitoba Public Schools Act, 1890, being 53 Vic., cap. 38, intituled "An Act respecting Public Schools," assented to 31st March, 1890, see *ante* page 14.

No. 6.

(Translation.)

BISHOP'S RESIDENCE, THREE RIVERS, 12th May, 1890.

HON. J. A. CHAPLEAU, Secretary of State, Ottawa.

SIR,—The unjust law which the Manitoba Government have caused to be adopted against the Catholic and French-speaking population of that province, abolishing separate schools and the official use of the French language, went into force on the 1st May instant. The protests of the minority, so unworthily treated by this infamous law, have been laid before the Dominion Government in order to secure its disallowance and the protection guaranteed them under the constitution. I trust the Government, of which you are a leading member, will lend a favourable ear to this appeal to its authority, and protect the rights of that minority by disallowing this Act, which has been characterized as persecution by Protestants themselves. The manliness with which you repelled a similar attempt in the North-West Territories inspires me with confidence that you will not fail to take a firm stand in this case also. The federal compact was invoked to maintain the abolition of separate schools in New Brunswick a few years ago, and nevertheless, the Catholic ministers, who were then members of the Dominion Government, declared to the Bishops that they were prepared to resign on that question, and it was only through respect for the autonomy of the provinces that that iniquitous law was then tolerated.

To-day it is in the name of the federal compact that the Manitoba minority ask for protection against an unjust law, which is a violation of the federal compact, for that compact guarantees the official use of the French language on the same footing as the English language, and the maintenance of separate schools, conditions without which the Catholic and French-speaking people of Manitoba would never have consented to enter into confederation; now that is the guarantee which the Hon. F. Martin's Act has recently trampled under foot, while unjustly, and without a shadow of pretext, depriving that minority of a right which every people holds most sacred, the right of preserving the language and the faith of their fathers.

I am confident, therefore, that the Ministers charged with the care of our religious and national interests in the Dominion Government, will to-day exhibit the same firmness as their predecessors, and that they will succeed in convincing their colleagues that if they desire to maintain a good understanding between the divers races, and insure peace and stability of Confederation, they must do justice to the

minority in Manitoba, and protect them against the iniquitous persecution inflicted on them by the majority at the instigation of a few fanatics.

In my humble opinion this is a far more serious matter than the Riel question, inasmuch as it involves a direct violation of sentiments dearest to the heart of man, his love for his native tongue and his religion.

Trusting that no Catholic French-Canadian member of the Government will, in the face of the country, take the responsibility of supporting a law so evidently unjust and hostile to our nationality,

I remain, &c.,

L. F., Bishop of Three Rivers.

No. 7.

To the Right Honourable Sir FREDERICK ARTHUR STANLEY, Baron Stanley of Preston, in the County of Lancaster, in the Peerage of the United Kingdom; Knight Grand Cross, of the Most Honourable Order of the Bath, Governor General of Canada, and Vice-Admiral of the same.

MAY IT PLEASE YOUR EXCELLENCY,—

To allow the undersigned Roman Catholic Archbishop of Manitoba, to lay respectfully before Your Excellency the following observations and requests:

Previous to the transfer of the North-West Territories to the Dominion of Canada, there prevailed a great uneasiness amongst the inhabitants of the said territories, with regard to the consequences of the transfer. The Catholic population especially, mostly of French origin, thought they had reason to foresee grievances on account of their language and their religion, if there were no special guarantee given, as to what they considered their rights and privileges. Their apprehensions gave rise to such an excitement that they resorted to arms, not through a want of loyalty to the Crown, but only through mere distrust towards Canadian authorities, which were considered as trespassing in the country previous to their acquisition of the same.

Misguided men joined together to prevent the entry of the would-be Lieutenant Governor. The news of such an outbreak was received with surprise and regret, both in England and Canada. All this took place in the autumn of 1870.

I was in Rome at the time, and at the request of the Canadian authorities, I left the Ecumenical Council to come and help the pacification of the country. On my way home, I spent a few days in Ottawa. I had the honour of several interviews with Sir John Young, then Governor General, and with his ministers. I was repeatedly assured that the rights of the people of Red River would be fully guarded under the new regime; that both Imperial and Federal authorities would never permit the new comers in the country to encroach on the liberties of the old settlers; that on the banks of the Red River as well as on the banks of the St. Lawrence, the people would be at liberty to use their mother tongue, to practice their religion and to have their children brought up according to their views. On the day of my departure from Ottawa, His Excellency handed to me a letter, a copy of which I attach to this as Appendix A, and in which are repeated some of the assurances given verbally: "The people," says the letter, "may rely that respect and attention will be extended to the different religious persuasions."

The Governor General, after mentioning the desire of Lord Granville, "to avail of my assistance from the outset," gave me a telegram he had received from the Most Honourable the Secretary of the Colonies, which I attach to this as Appendix B, and in which His Lordship expressed the desire that the Governor General would take "every care to explain where there is a misunderstanding, and to ascertain the wants and conciliate the good-will of all the settlers of the Red River."

I was, moreover, furnished with a copy of the proclamation issued by His Excellency on the 6th December, 1869, which I attach to this as Appendix C. In this proclamation we read: "Her Majesty commands me to state to you that she will be always ready through me as Her Representative, to redress all well-founded grievances," and any complaints that may be made, or desires that may be expressed to me as Governor General. By Her Majesty's authority, I do therefore assure you that "on your union with Canada, all your civil and religious rights and privileges will be respected."

A delegation from Red River had been proposed as a good means of giving and receiving explanations conducive to the pacification of the country. The desirability of this step was urged upon me as of the greatest importance, and the Premier of Canada in a letter I attach to this as Appendix B wrote to me. "In case a delegation is appointed to proceed to Ottawa, you can assure them that they will be kindly received and their suggestions fully considered. Their expenses coming here and returning and while staying in Ottawa will be defrayed by us"

I left after having received the above-mentioned instructions, and reached St. Boniface on the 9th March, 1870.

I communicated to the dissatisfied the assurances I had received, showing them the documents above cited. This largely contributed to dispel fears and to restore confidence. The delegation which had been delayed was definitely decided upon. The delegates appointed several weeks before received their commission afresh. They proceeded to Ottawa; opened negotiations with the federal authorities, and with such result that on the 3rd of May, 1870, Sir John Young telegraphed to Lord Granville: "Negotiations with delegates closed satisfactorily."

The negotiations provided that the denominational or separate schools will be guaranteed to the minority of the new Province of Manitoba; the French language received such recognition that it was decided it would be used officially both in parliament and in the courts of Manitoba.

The Manitoba Act was then passed by the House of Commons and Senate of Canada, and sanctioned by the Governor General.

The said Act received the supreme sanction of the Imperial Parliament, which thus took under its own safeguard the rights and privileges conferred by it.

I take the liberty to here cite most of the two clauses relating to denominational schools and official use of the French language.

Clause 22.—"In and for the province, the said legislature may exclusively make laws in relation to education, subject and according to the following: '10. Nothing in such law shall prejudicially affect any right or privilege with respect to denominational schools which any class of persons have by law or practice in the province at the union.' '20. An appeal shall lie to the Governor General in Council from any Act or decision of the Legislature of the province, or any other provincial authority affecting any right or privilege of the Protestant or Roman Catholic minority of the Queen's subjects in relation to education.'"

Clause 23.—"Either the English or the French language may be used by any person in the debates of the Houses of the Legislature, and both those languages shall be used in the respective records and journals of those houses; and either of these languages may be used by any person, or in any pleading or process in or issuing from any court of Canada established under the British North America Act, 1867, or in or from all or any of the courts of the province. The Acts of the Legislature shall be printed and published in both these languages."

According to the provisions above mentioned, the Legislature of Manitoba always recognized the Catholic schools as an integral part of the educational system of the province. The use of the French language met with the same recognition. Everything went on smoothly and harmoniously in that respect since the establishment of the province, until a few months ago.

Without stating any fair reason for the change, and without any public movement to determine it, the provincial cabinet of Mr. Greenway has brought before the Legislature and secured the passing of Acts of such a radical character against

the French and the Catholics, that a decided Protestant influential newspaper has not hesitated to say: "That is not legislation, but persecution."

I know that the laws I allude to are to be remitted to Your Excellency along with this, so I do not add a copy of the same.

I consider the laws just enacted by the Legislature of Manitoba to abolish the Catholic schools and the official use of the French language, as an unwarranted violation of the promises made before, and to secure the entry of this country into Confederation.

I consider such laws as a dead blow to the very constitution of this Province. They are detrimental to some of the dearest interests of a portion of Her Majesty's most loyal subjects. If allowed to be put in force, they will be a cause of irritation, destroy the harmony which exists in the country and leave the people under the painful and dangerous impression that they have been cruelly deceived, and because a minority they are left without protection, and that against the promises made twenty years ago by the then immediate representative of Her Majesty: "Right shall be done in all cases."

I therefore most respectfully and most earnestly pray that Your Excellency, as the representative of our most beloved Queen, should take such steps that, in your wisdom, would seem the best remedy against the evils that the above mentioned and recently enacted laws are preparing in this part of Her Majesty's domain.

With most profound respect and full confidence,

I remain

Your Excellency's humble and obedient servant,

ALEX., ARCH. OF ST. BONIFACE.

St. Boniface, 12th April, 1890.

A.

Letter to Bishop Taché.

OTTAWA, February 16, 1870.

MY DEAR LORD BISHOP,—I am anxious to express to you, before you set out, the deep sense of obligation which I feel is due to you for giving up your residence at Rome, leaving the great and interesting affairs in which you were engaged there, and undertaking at this inclement season the long voyage across the Atlantic, and long journey across this continent for the purpose of tendering service to Her Majesty's Government, and engaging in a mission in the cause of peace and civilization.

Lord Granville was anxious to avail of your valuable assistance from the outset, and I am heartily glad that you have proved willing to afford it so promptly and generously.

You are fully in possession of the views of my Government, and the Imperial Government, as I informed you, is earnest in the desire to see the North-West Territory united to the Dominion on equitable conditions.

I need not attempt to furnish you with any instructions for your guidance beyond those contained in the telegraphic message sent by Lord Granville on the part of the British Cabinet, in the proclamation which I drew up in accordance with that message, and in the letters which I addressed to Governor McTavish, your Vicar General, and Mr. Smith. In this last note, "All who have complaints to make" or wish to express, are called upon to address themselves to me, as Her Majesty's representative, and you may state with the utmost confidence that the Imperial Government has no intention of acting otherwise than in perfect good faith towards the inhabitants of the North-West. The people may rely that respect and attention will be extended to the different religious persuasions, that title to every description of property will be carefully guarded, and that all the franchises which have subsisted, or which the people may prove themselves qualified to exercise, shall be duly continued and liberally conferred.

In declaring the desire and determination of Her Majesty's Cabinet, you may safely use the terms of the ancient formula: "Right shall be done in all cases."

I wish you, dear Lord Bishop, a safe journey and success in your benevolent mission.

Believe me, with all respect, faithfully yours,

JOHN YOUNG."

B.

Telegram sent by Lord Granville to Sir John Young, dated the 25th November, 1869.

The Queen has learned with regret and surprise that certain misguided men have joined together to resist the entry of Her Lieutenant-Governor into Her Majesty's possessions in the Red River.

The Queen does not distrust her subjects' loyalty in those settlements, and must ascribe their opposition to a change, plainly for their advantage, to misrepresentation or misunderstanding. She relies upon your government for taking every care to explain where there is a misunderstanding, and to ascertain the wants and conciliate the good will of all the settlers of the Red River. But, at the same time, she authorizes you to tell them that she views with displeasure and sorrow their lawless and unreasonable proceedings, and she expects that if they have any wish to express, or complaints to make, they will address themselves to the Governor of the Dominion of Canada, of which, in a few days, they will form a part.

"The Queen relies upon her representative being always ready, on the one hand, to give redress to well-founded grievances, and on the other to repress with the authority with which she has entrusted him any unlawful disturbance."

C.

"Proclamation.

"V.R.

"By His Excellency the Right Honourable Sir John Young, Baronet, a Member of Her Majesty's Most Honourable Privy Council, Knight Grand Cross of the Most Honourable Order of the Bath, Knight of the Most Distinguished Order of St. Michael and St. George, Governor General of Canada:

"To all and every the loyal subjects of Her Majesty the Queen, and to all to whom these presents shall come,

"GREETING:

"The Queen has charged me, as her representative, to inform you that certain misguided persons in her settlement on the Red River have banded themselves together to oppose by force the entry into her North-Western Territories of the officer selected to administer, in her name, the Government, when the Territories are united to the Dominion of Canada, under the authority of the late Act of the Parliament of the United Kingdom; and that those parties have also forcibly, and with violence, prevented others of her loyal subjects from ingress into the country. Her Majesty feels assured that she may rely upon the loyalty of her subjects in the North-West, and believes those men who have thus illegally joined together have done so from some misrepresentation.

"The Queen is convinced that in sanctioning the union of the North-West Territories with Canada, she is promoting the best interests of the residents, and at the same time strengthening and consolidating her North American possessions as part of the British Empire. You may judge then of the sorrow and displeasure with which the Queen views the unreasonable and lawless proceedings which have occurred.

“ Her Majesty commands me to state to you that she will always be ready, through me as her representative, to redress all well founded grievances, and any complaints that may be made, or desires that may be expressed to me as Governor-General. At the same time she has charged me to exercise all powers and authority with which she has invested me, in the support of order, and the suppression of unlawful disturbances.

“ By Her Majesty’s authority I do therefore assure you that on the union with Canada, all your civil and religious rights and privileges will be respected, your properties secured to you, and that your country will be governed, as in the past, under British laws, and in the spirit of British justice.

“ I do further, under Her authority, entrust and command those of you who are still assembled and banded together, in defiance of law, peaceably to disperse and return to your homes, under the penalties of the law in case of disobedience. And I do lastly inform you, that in case of your immediate and peaceable obedience and dispersion, I shall order that no legal proceedings be taken against any parties implicated in these unfortunate breaches of the law.

“ Given under my hand and seal at arms at Ottawa, this sixth day of December in the year of our Lord one thousand eight hundred and sixty-nine, and in the thirty, second year of Her Majesty’s reign.

“ By command,

“ JOHN YOUNG.

“ H. L. LANGEVIN, *Secretary of State.*”

D.

(Private)

DEPARTMENT OF JUSTICE,

OTTAWA, CANADA, February 16th, 1870.

MY DEAR LORD,—Before you leave Ottawa on your mission of peace, I think it well to reduce in writing the substance of the conversation I had the honour to have with you this morning.

I mark this letter “private” in order that it may not be made a public document, to be called for by Parliament prematurely; but you are quite at liberty to use it in such a manner as you may think most advantageous. I hope that ere you arrive at Fort Garry, the insurgents, after the explanations that have been entered into by Messrs. Thibault, De Salabery and Smith, will have laid down their arms, and allowed Governor McTavish to resume the administration of public affairs. In such case, by the Act of the Imperial Parliament of last session, all the public functionaries will still remain in power, and the Council of Assiniboia will be restored to their former position. Will you be kind enough to make full explanation to the Council on behalf of the Canadian Government, as to the feelings which animate, not only the Governor General, but the whole Government, with respect to the mode of dealing with the North-West. We have fully explained to you, and desire you to assure the council authoritatively, that it is the intention of Canada to grant to the people of the North-West the same free institutions which they themselves enjoy.

Had not these unfortunate events occurred, the Canadian Government had hoped, long ere this, to have received a report from the council, through Mr. McDougall, as to the best means of speedily organizing the Government with representative institutions. I hope that they will be able to immediately take up that subject, and to consider and report, without delay, on the general policy that should immediately be adopted.

It is obvious that the most inexpensive mode for the administration of affairs should at first be adopted, as the preliminary expense of organizing the Government after union with Canada, must, in the first be defrayed from the Canadian treasury, there will be a natural objection in the Canadian Parliament to a large expenditure.

As it would be unwise to subject the Government of the territory to a recurrence of the humiliation already suffered by Governor McTavish, you can inform him that if he organizes a local police, of twenty-five men, or more if absolutely necessary, that the expense will be defrayed by the Canadian Government.

You will be good enough to endeavour to find out Monkman, the person to whom through Colonel Dennis, Mr. McDougall gave instructions to communicate with the Salteux Indians. He should be asked to surrender his letter, and informed that he ought not to proceed upon it. The Canadian Government will see that he is compensated for any expense that he has already incurred.

In case a delegation is appointed to proceed to Ottawa, you can assure them that they will be kindly received, and their suggestions fully considered. Their expenses coming here and returning, and whilst staying in Ottawa, will be defrayed by us.

You are authorized to state that the two years which the present tariff shall remain undisturbed, will commence from the 1st January, 1871, instead of last January, as first proposed.

Should the question arise as to the consumption of any stores or goods belonging to the Hudson Bay Company by the insurgents, you are authorized to inform the leaders that if the company's Government is restored, not only will there be a general amnesty granted, but in case the company should claim the payment for such stores, that the Canadian Government will stand between the insurgents and all harm.

Wishing you a prosperous journey and happy results.

I beg to remain, with great respect, your very faithful servant,

JOHN A MACDONALD.

To the Right Reverend the Bishop of St. Boniface, Fort Garry.

No. 8.

To His Excellency the Governor General in Council:—

The Humble Petition of the undersigned Members of the Roman Catholic Church in the Province of Manitoba, presented on behalf of themselves and their co-religionists in the said Province, Sheweth as follows:—

1. Prior to the passage of the Act of the Dominion of Canada, passed in the thirty third year of the reign of Her Majesty Queen Victoria, chapter three, known as the Manitoba Act, and prior to the Order in Council issued in pursuance thereof, there existed in the territory now constituting the Province of Manitoba, a number of effective schools for children.

2. These schools were denominational schools, some of them being regulated and controlled by the Roman Catholic Church, and others by various Protestant denominations.

3. The means necessary for the support of the Roman Catholic Schools were supplied to some extent by school fees paid by some of the parents of the children who attended the schools and the rest was paid out of the funds of the church contributed by its members.

4. During the period referred to, Roman Catholics had no interest in or control over the schools of the Protestant denominations, and the members of the Protestant denominations had no interest in or control over the schools of the Roman Catholics. There were no public schools in the sense of state schools. The members of the Roman Catholic Church supported the schools of their own church for the benefit of Roman Catholic children and were not under obligation to, and did not contribute to the support of, any other schools.

5. In the matter of education, therefore, during the period referred to, Roman Catholics were as a matter of custom and practice separate from the rest of the community.

6. Under the provisions of the Manitoba Act it was provided that the Legislative Assembly of the Province should have the exclusive right to make laws in regard to education, subject however and according to the following provisions:

(1) "Nothing in any such law shall prejudicially affect any right or privilege with respect to denominational schools, which any class of persons have by law or practice in the Province at the Union."

(2) "An appeal shall lie to the Governor General in Council from any act or decision of the Legislature of the Province, or of any Provincial authority, affecting any right or privilege of the Protestant or Roman Catholic minority of the Queen's subjects in relation to education."

(3) "In case any such Provincial law as from time to time seems to the Governor General in Council requisite for the due execution of the provisions of this section is not made, or in case any decision of the Governor General in Council or any appeal under this section is not duly executed by the proper Provincial authority in that behalf, then, and in every such case, and as far only as the circumstances of each case require, the Parliament of Canada may make remedial laws for the due execution of the provisions of this section, and of any decision of the Governor General under this section."

7. During the first Session of the Legislative Assembly of the Province of Manitoba, an Act was passed relating to education, the effect of which was to continue to the Roman Catholics that separate condition with reference to education which they had enjoyed previous to the erection of the province.

8. The effect of the statute so far as the Roman Catholics were concerned was merely to organize the efforts which Roman Catholics had previously voluntarily made for the education of their own children. It provided for the continuance of schools under the sole control and management of Roman Catholics; and of the education of their children according to the methods by which alone they believe children should be instructed.

9. Ever since the said legislation and until the last Session of the Legislative Assembly, no attempt was made to encroach upon the rights of the Roman Catholics so confirmed to them as above mentioned, but during said Session Statutes were passed (53 Vic., caps. 37 and 38) the effect of which was to deprive the Roman Catholics altogether of their separate condition in regard to education; to merge their schools with those of the Protestant denominations, and to require all members of the community whether Roman Catholic or Protestant to contribute through taxation to the support of what are therein called public schools, but which are in reality a continuation of the Protestant schools.

10. There is a provision in the said Act for the appointment and election of an Advisory Board and also for the election in each municipality of school trustees. There is also a provision that the said Advisory Board may prescribe religious exercises for use in schools, and that the said school trustees may, if they think fit, direct such religious exercises to be adopted in the schools in their respective districts. No further or other provision is made with reference to religious exercises, and there is none with reference to religious training.

11. Roman Catholics regard such schools as unfit for the purposes of education, and the children of Roman Catholic parents cannot and will not attend any such schools. Rather than countenance such schools, Roman Catholics will revert to the voluntary system in operation previous to the Manitoba Act and will at their own private expense establish, support and maintain schools in accordance with their principles and their faith, although by so doing they will have in addition thereto to contribute to the expense of the so-called public schools.

12. Your petitioners submit that the said Act of the Legislative Assembly of Manitoba is subversive of the rights of Roman Catholics guaranteed and confirmed to them by the Statute erecting the Province of Manitoba, and prejudicially affects the rights and privileges with respect to Roman Catholic schools, which Roman Catholics had, in the Province, at the time of its union with the Dominion of Canada.

13. Roman Catholics are in a minority in the said Province.

14. The Roman Catholics of the Province of Manitoba, therefore, appeal from the said Act of the Legislative Assembly of the Province of Manitoba.

Your petitioners therefore pray :

1. That Your Excellency the Governor General in Council may entertain the said appeal, and may consider the same, and may make such provisions and give such directions for the hearing and consideration of the said appeal as may be thought proper.

2. That it may be declared that such Provincial law does prejudicially affect the rights and privileges with regard to denominational schools which Roman Catholics had by law or practice in the Province at the Union.

3. That such directions may be given and provisions made for the relief of the Roman Catholics of the Province of Manitoba as to Your Excellency in Council may seem fit.

And your petitioners will ever pray.

† ALEX, Arch. of St. Boniface,
 † HENRI F., EV. d'ANEMON.
 JOSEPH MESSIER, P.P. of St. Boniface,
 F. A. BERNIER,
 M. A. GIRARD, Senator,
 J. DUBUC,
 A. A. LA RIVIÈRE, M.P.,
 L. A. PRUDHOMME,
 JAMES E. PRENDERGAST, M.P.P.,
 ROGER MARION, M.P.P.,

and 4,257 more names.

SUPPLEMENTARY RETURN

(63b)

To an ADDRESS of the HOUSE OF COMMONS, dated the 5th of May, 1891;—For copies of all correspondence, petitions, memorials, briefs, and factums, and of any other documents submitted to the privy council in connection with the abolition of separate schools in the province of Manitoba by the legislature of that province; also copies of reports to and orders in council thereon; also copies of any Act or Acts of said legislature abolishing said separate schools or modifying in any way the system existing prior to 1890.

By order.

J. A. CHAPLEAU,
Secretary of State.

WINNIPEG, MANITOBA, 15th April, 1891.

SIR,—I have the honour to forward to you by this day's mail for your information a copy of the Appeal Book of Barrett vs. the City of Winnipeg.

I have, etc.,

JOHN K. BARRETT.

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

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IN THE SUPREME COURT OF CANADA.

IN THE MATTER OF BY-LAWS 480 AND 483 OF THE CITY OF WINNIPEG.

APPLICATION OF JOHN KELLY BARRETT TO TEST THE MANITOBA PUBLIC SCHOOLS
ACT OF 1890.

In the Queen's Bench.

In the matter of an application to quash }
By-law 480 and 483 of the city of }
Winnipeg. }

I, John Kelly Barrett, of the city of Winnipeg, in the county of Selkirk and province of Manitoba, gentleman, make oath and say :

1. That I am a rate-payer and resident of the city of Winnipeg aforesaid and have resided in the said city continuously for the past five years, and am a member of the Roman catholic church.

2. On and prior to the thirtieth day of April last a school district (having some years before been established) existed in the city of Winnipeg, and such school district was under the direction and management of the corporation known as "The School Trustees for the Catholic School District for Winnipeg No. 1, in the Province of Manitoba."

3. The said corporation has established and in operation a number of schools in Winnipeg, under the provisions of the various provincial statutes relating to schools, to one of which, namely, St. Mary's school, situate on Hargrave Street, I have for three years past, sent my children for instruction, which children are aged respectively ten, eight and five years.

4. That the said St. Mary's school is still in existence and the same teaching and religious exercises are continued as before the passing of the said act and my said children still attend said school.

5. The paper writing now shown to me marked with the letter "A" is a true copy of by-law no. 480, passed by the council of the city of Winnipeg, on the fourteenth day of July last, and the same is certified under the hand of the clerk of the said city and under the corporate seal thereof.

6. The said paper writing so certified as aforesaid was received by me from said clerk.

7. The paper writing now shown to me marked with the letter "B" is a true copy of by-law no. 483 passed by the council of the city of Winnipeg on the twenty-eighth day of July last and certified under the hand of the clerk of the said city and under the corporate seal thereof, and such paper writing was received by me from the said clerk.

8. I am interested in the said by-law by virtue of being a resident and rate-payer of said city.

9. The paper writing now shown to me marked with the letter "C" is a true copy of a requisition sent to the clerk of the said city by the school trustees for the protestant school district of Winnipeg, no. 1, on the twenty-eighth day of April last.

10. The paper writing now shown to me marked with the letter "D" is a true copy of the requisition sent to the clerk of the said city by the school trustees for the

catholic school district of Winnipeg, no. 1, in the province of Manitoba, on the twenty-ninth day of April last.

11. That the estimate of all sums for the lawful purposes of the city of Winnipeg for the present year as required to be made by section 283 of the municipal act passed in the fifty-third year of the reign of her majesty Queen Victoria, chapter 31, were based upon the two requisitions above referred to, copies of which are marked with the letters "C" and "D" as aforesaid, which requisitions were presented to the council of said city of the fifth day of May last.

12. That the amounts of \$75,000 and \$2,550, mentioned in the said exhibits "C" and "D," respectively, form part of the sum \$377,744.43 mentioned in said exhibit "A."

13. The effect of the said by-laws is that one rate is levied upon all protestants and Roman catholic rate-payers in order to raise the amount mentioned in said exhibits "C" and "D," and the result to individual rate-payers is, that each protestant will have to pay less than if he were assessed for protestant schools alone, and each Roman catholic will have to pay more than if he were assessed for Roman catholic schools alone.

14. I have read the affidavit sworn to in this matter on the third day of October instant, by the Most Reverend Alexander Taché, and I say that so far as the same lies within my personal knowledge the same is true; as to the rest, I believe the same to be true.

JOHN K. BARRET.

Sworn before me, at the city of Winnipeg, in the county of Selkirk, this eighth day of October, A.D. 1890.

HORACE E. CRAWFORD,

A Commissioner in O. B., etc.

In the Queen's Bench.

In the matter of an application to quash }
by-law 480 and 483 of the city of Win- }
nipeg. }

I, Alexander Taché, of the town of St. Boniface in the county of Selkirk and province of Manitoba, archbishop of the Roman catholic ecclesiastical province of St. Boniface, make oath and say:

1. That I have been a resident continuously of this county since eighteen hundred and forty-five as a priest in the Roman catholic church, and as bishop thereof since the year eighteen hundred and fifty, and now am the archbishop and metropolitan of the said church, and I am personally aware of the truth of the matters herein alleged.

2. Prior to the passage of the act of the dominion of Canada passed in the thirty-third year of the reign of her majesty Queen Victoria, chapter three, known as the Manitoba act and prior to the order in council issued in pursuance thereof, there existed in the territory now constituting the province of Manitoba a number of effective schools for children.

3. These schools were denominational schools, some of them being regulated and controlled by the Roman catholic church, and others by various protestant denominations.

4. The means necessary for the support of the Roman catholic schools were supplied to some extent by school fees paid by some of the parents of the children who attended the schools and the rest was paid out of the funds of the church, contributed by its members.

5. During the period referred to, Roman catholics had no interest in or control over the schools of the protestant denominations and the members of the protestant denominations had no interest in or control over the schools of Roman catholics. There were no public schools in the sense of state schools. The members of the Roman catholic

church supported the schools of their own church for the benefit of Roman catholic children and were not under obligation to, and did not contribute to the support of any other schools.

6. In the matter of education, therefore, during the period referred to, Roman catholics were as a matter of custom and practice separate from the rest of the community, and their schools were all conducted according to the distinctive views and beliefs of Roman catholics as herein set forth.

7. Roman catholic schools have always formed an integral part of the work of the Roman catholic church. That church has always considered the education of the children of Roman catholic parents as coming peculiarly within its jurisdiction. The school in the view of the Roman catholics is in a large measure the "Children's Church" and wholly incomplete and largely abortive if religious exercises be excluded from it. The church has always insisted upon its children receiving their education in schools conducted under the supervision of the church, and upon them being trained in the doctrines and faith of the church. In education the Roman catholic church attaches very great importance to the spiritual culture of the child, and regards all education unaccompanied by instruction in its religious aspects as possibly detrimental and not beneficial to children. With this regard the church requires that all teachers of children shall not only be members of the church, but shall be thoroughly imbued with its principles and faith; shall recognize its spiritual authority and conform to its directions. It also requires that such books be used in the schools, with regard to certain subjects as shall combine religious instruction with those subjects, and this applies peculiarly to all history and philosophy.

8. The church regards the schools provided for by "The Public Schools Act" and being chapter 38 of the statutes passed in the reign of her majesty Queen Victoria, in the fifty-third year of her reign, as unfit for the purpose of educating their children, and the children of Roman catholic parents will not attend such schools. Rather than countenance such schools, Roman catholics will revert to the system of operation previous to the Manitoba act, and will establish, support and maintain schools in accordance with their principles and faith as aforementioned.

9. Protestants are satisfied with the system of education provided for by the said act, "The Public Schools Act," and are perfectly willing to send their children to the schools established and provided for by the said act. Such schools are in fact similar in all respects to the schools maintained by the protestants under the legislation in force immediately prior to the passage of the said act. The main and fundamental difference between protestants and catholics, with reference to education, is that while many protestants would like education to be of a more distinctly religious character than that provided for by the said act, yet they are content with that which is so provided and have no conscientious scruples against such a system; the catholics on the other hand insist and have always insisted upon education being thoroughly permeated with religion and religious aspects. That causes and effects in science, history, philosophy and aught else should be constantly attributed to the Deity and not taught merely as causes and effects.

10. The effect of "The Public Schools Act" will be to establish public schools in every part of Manitoba where the population is sufficient for the purpose of a school and to supply in this manner, education to children free of charge to them or their parents further than their share, in common with other members of the community of the amounts levied under and by virtue of the provisions contained in the act.

11. In case Roman catholics revert to the system in operation previous to the Manitoba act, they will be brought in direct competition with the said public schools, owing to the fact that the public schools will be maintained at public expense, and the Roman catholic schools by school fees and private subscription, the latter will labour under serious disadvantage. They will be unable to afford inducements and benefits to children to attend such schools equal to those afforded by public schools, although they would be perfectly able to compete with any or all schools unaided by law-enforced support.

12. When in the foregoing paragraphs I speak of the faith or belief of the Roman catholic church, I speak not only for myself and the church in its corporate capacity, but for its members.

ALEX. TACHÉ,

Archbishop of St. Boniface, O.M.I.

Sworn before me at the city of Winnipeg, in the county of Selkirk, this third day of October, A.D. 1890.

EDMOND TRUDEL,

A Commissioner in B.R., etc.

BY-LAW No. 480.

A by-law to authorize an assessment for city and school purposes in the city of Winnipeg for the current municipal year 1890.

Whereas it is expedient and necessary for the city purposes to raise the sum of three hundred and seventy thousand seven hundred and forty-four 43.100 dollars for interest on debentures and ordinary current municipal and school expenditure for the current year by a tax on all real and personal property appearing on the assessment rolls of the city of Winnipeg for the year 1890 ;

And whereas the amount of the whole of the rateable property of the city of Winnipeg, as shown by the last revised assessment rolls of the said city of Winnipeg, is eighteen millions six hundred and twelve thousand four hundred and ten dollars (\$18,612,410.00), and it will require a rate of two cents on the dollar on the amount of the said rateable property to raise the sum so required as aforesaid for interest on debentures now accruing due, and for the ordinary current municipal and school expenditure for the year A.D. 1890 ;

Therefore, the council of the city of Winnipeg in council assembled enacts as follows :

1. There shall be raised, levied or collected a tax of two cents on the dollar upon the whole assessed value of the real and personal property in the city of Winnipeg, according to the last revised assessment rolls for the year 1890, to provide for the payment of the interest on debentures now accruing due, and for the ordinary current municipal expenditure and for the schools of the city for the year A.D. 1890.

2. The sum of two dollars (\$2.00) poll tax shall be levied and collected from every person residing within the city of Winnipeg, and being of the age of twenty-one years and upwards, who has not been assessed upon the assessment rolls of the city of Winnipeg, or whose taxes do not amount to two dollars, in which latter case a total tax of two dollars only shall be levied, which taxes shall be collected in the same manner as other taxes.

The taxes and rates hereby imposed shall be considered to have been imposed and to be due on and from the first day of October, A.D. 1890. Done and passed in council assembled at the city of Winnipeg, this fourteenth day of July, A.D. 1890.

ALEX. BLACK, Ald.,

Acting Mayor.

C. J. BROWN, *City Clerk.*

I hereby certify that I have compared the above, consisting of two pages of writing, with the original by-law no. 480, of the city of Winnipeg, and that the same is a true and correct copy of such by-law no. 480 of the city of Winnipeg.

Dated this 18th September, A.D. 1890.

C. J. BROWN, *City Clerk.*

BY-LAW No. 483.

A by-law to amend by-law no. 480, of the city of Winnipeg.

Whereas it has been deemed expedient and necessary to amend by-law No. 480, of the city of Winnipeg, being a by-law to authorize an assessment for city and school purposes in the city of Winnipeg, for the current municipal year, A.D. 1890 ;

And whereas the property of certain corporations is exempt for a period of years from ordinary municipal taxation and liable only for school rates ; and it is therefore desirable to distinguish the rates providing for the city schools but so that the total several rates shall not exceed two cents on the dollar.

Now therefore, the mayor and council of the city of Winnipeg in council assembled enact as follows :

1. By-Law no. 480, entitled a by-law to authorize an assessment for city and school purposes in the city of Winnipeg for the current municipal year, 1890, is hereby amended.

(A.) By adding to the second or last recital the words following : " Whereof the rate of fifteen 4-5ths mills on the dollar shall be for interest on debentures now accruing due and for the ordinary current municipal expenditure, and the rate of four and one-fifth mills on the dollar shall be for school expenditure for the year 1890."

(B.) And by inserting after the figures " 1890 " in the fifth line of the first section of said by-law, the words following : " Of which the amount of fifteen and four-fifth mills on the dollar shall be."

(C.) And by inserting after the word " and " in the seventh line of said first section the words following : " And four and one-fifth mills on the dollar."

Done and passed in council assembled at the city of Winnipeg, this twenty-eighth day of July, 1890.

ALEX. BLACK, ALD.,

Acting Mayor.

C. J. BROWN, *City Clerk.*

I hereby certify that I have compared the above, consisting of two pages of writing, with the original by-law no. 483 of the city of Winnipeg, and that the same is a true and correct copy of such by-law no. 483 of the city of Winnipeg.

Dated this 18th September, A.D. 1890.

C. J. BROWN, *City Clerk.*

I, Charles James Brown, of the city of Winnipeg, in the county of Selkirk and province of Manitoba, city clerk for Winnipeg aforesaid, do hereby certify ;

That the estimate of all the sums required for the purposes of the city of Winnipeg for the fiscal year ending the thirtieth day of April, A.D. 1891, were duly submitted to, and approved by the council of the said city.

That according to such estimates, the only amounts provided for school purposes were as follows :

The Winnipeg protestant schools	\$75 000
The Winnipeg catholic schools	2 550

That such estimates for school purposes were based upon two requisitions which were received by me as clerk and were presented to the said council on the fifth day of May, A.D. 1890, and which were respectively in the words and figures following to wit :

" PROTESTANT SCHOOL BOARD OF THE CITY OF WINNIPEG,

" OFFICES CITY HALL, WINNIPEG, April 28th, 1890.

P. C. MCINTYRE, Chairman,

STEWART MULVEY, Sec.-Treas.

" SIR,—I am directed by the board of school trustees for the protestant school district of Winnipeg no. 1 in the province of Manitoba, to ask the municipal council of the city of Winnipeg, to levy and collect for school purposes, a sum of seventy-five (\$75,000)

thousand dollars for the school year of 1890. Herewith please find a list of names with their respective assessment, liable to be assessed for support of protestant schools."

"Your obedient servant,

STEWART MULVEY, *Sec.-Treasurer.*

C. J. BROWN, CITY CLERK, &c., &c."

"BOARD OF CATHOLIC SCHOOL TRUSTEES, WINNIPEG, April 29th, 1890.

"TO CHAS. BROWN, ESQ., City Clerk, City.

"SIR,—I am instructed by the school trustees of the Winnipeg catholic school district, to provide you, and I transmit herewith, their estimate for the sums required to be levied for the support of their schools by taxation for the year 1890, exclusive of the taxes on corporate bodies. I also transmit list of names of persons liable to be assessed for the same. I am to request that you will submit said estimate and list to the mayor and aldermen in council, of the city of Winnipeg, for levy and collection by them in compliance with subsection (d) of section 17, of the school amendment act, 1885.

"I am, &c.,

"GEO. E. FORTIN, *Sec.-Treasurer.*

"Extract from the minutes of a meeting of the school trustees for the catholic school district of Winnipeg, no. 1, held at the city of Winnipeg, on the twenty-ninth day of April, A.D. 1890.

"Present: Messrs. N. Bawlf, chairman, J. K. Barrett, John O'Connor, D. B. McIlroy and M. McManus.

"It was moved by Mr. J. K. Barrett, seconded by Mr. McManus, that to supplement the government grant in aid of the schools of this district, the sum of two thousand five hundred and fifty dollars (\$2,550) be levied by taxation upon catholic ratepayers of the catholic school district of the city of Winnipeg, for the year eighteen hundred and ninety (1890), exclusive of the taxes to be levied upon the corporate bodies, and that the secretary-treasurer forward the said estimate with a list of the Catholic ratepayers liable to be assessed therefore to the city of Winnipeg, on or before the 30th day of April, instant.—Carried. "A true copy.

(Corporate seal)

"GEO. E. FORTIN.

"*Secretary-Treasurer, S. T., for the C. S. D. Winnipeg.*"

Dated this eighteenth day of September, A.D. 1890.

C. J. BROWN, *City Clerk.*

In the Queen's Bench.

In the matter of an application to quash by-laws 480 and 483 of the city of Winnipeg.

Upon the application of John Kelly Barrett, a resident ratepayer of the said city of Winnipeg, and upon hearing read copies of the said by-laws, certified under the hand of the clerk of the said city and under the corporate seal of the said city and also the affidavits of the said John Kelly Barrett and the Most Reverend Alexander Taché, and upon hearing the attorney for the said applicant let the attorney for the corporation of the city of Winnipeg attend before the presiding judge in chambers, at the court house in the city of Winnipeg, at the hour of half-past ten o'clock in the forenoon of the twentieth day of October, instant, and shew cause why an order should not be made by the said judge quashing the said by-laws for illegality, and that upon the following among other grounds;

1. That because by the said by-laws the amounts to be levied for school purposes for the protestant and catholic schools are united, and one rate levied upon protestants and Roman catholics alike for the whole sum.

T. W. TAYLOR, *Chief Justice.*

Dated in Chambers, the 7th day of October, 1890.

In the Queen's Bench.

In the matter of an application to quash by-laws 480 and 483 of the city of Winnipeg.

I, George Bryce, of the city of Winnipeg, in the county of Selkirk, in the province of Manitoba, professor in Manitoba college, make oath and say :

1. That I have been a resident of the province of Manitoba since the year 1871. That I am the minister of the presbyterian church longest resident in the province, that I have been in constant communication with the officers and councils of the church, having been the first moderator of the synod of Manitoba and the North-West Territories of the presbyterian church in Canada, and I am personally aware of the truth of the matters herein alleged.

2. That I am familiar with opinions of the presbyterians of the province, in the years immediately succeeding the entrance of Manitoba into confederation in 1870, and am aware that the presbyterians of this province did not claim to have the church schools, which has been previously voluntarily maintained by them or by the church for them continued to them at cost to the general public.

3. That in founding Manitoba college, in November, 1881, I took over the highest class of Kildonan school as the beginning of the college, which had thus far continued a purely church institution, and for which I never heard the claim advanced that we were entitled to any consideration under the Manitoba act, indeed I always considered the government schools as entirely different and, up to 1871, unknown in the country, and for several years we did take younger students into our church college who might have been educated in the government schools alongside.

4. That about the year 1876 a strong agitation took place in the Province to have one public school system established, but this agitation failed to obtain effect in legislation.

5. The presbyterian synod of Manitoba and the North-West Territories which represents the largest religious body in Manitoba, passed in May, 1890, a resolution heartily approving of the public school act of this year, and I believe that it is approved of by the great majority of the presbyterians of Manitoba.

6. That the presbyterian church is most solicitous for the religious education of all its children. It takes great care in the vows required of parents at the baptism of their children, and in urging its ministers to teach from the pulpit the duty of giving moral and religious training in the family. It is most energetic in maintaining efficient sunday schools, which have been called the "Children's Church," and in requiring the attendance of the children at the church services, which is made a great means of instruction. I think it is our firm belief that this system joined with the public school system has produced and will produce a moral, religious and intelligent people.

7. That the presbyterians are thus able to unite with their fellow christians of other churches in having taught in the public schools (which they desire to be taught by christian teachers) the subjects of a secular education, and I cannot see that there should be any conscientious objection on the part of the Roman catholics to attend such schools, provided adequate means be provided of giving elsewhere such moral and religious training as may be desired ; but on the other hand there should be many social and national advantages.

8. I believe all presbyterians are anxious to have science, history and philosophy taught in such a manner as will intelligently recognize the divine purpose and influence in human affairs, but certainly I cannot desire to teach, 'as would be covered by the plea sometimes advanced that the instrumentality of evil and the deeds of bad men should be "constantly attributed to the deity," nor do I believe the tendency of the public school as established in Manitoba at present to be toward any atheistic or irreligious goal, but that it will follow the current opinions of the settlers of Manitoba, a remarkably large number of whom are religious and intelligent.

9. That instead of it being a detriment that public schools will be "established in every part of Manitoba where the population is sufficient for the purpose of a school" it will be a benefit, as up to the present time large numbers of Roman catholic children

scattered through the general population have been able to get no education, and are in danger of growing up an illiterate class.

10. That when in the foregoing paragraphs I speak of the belief of presbyterians, I speak simply of what I consider their belief to be, and I speak only for myself, as it is a privilege for every presbyterian to think for himself, and to be directly responsible to God, and in my opinion the general feeling of what are known as the protestant denominations is as I have indicated above.

GEORGE BRYCE.

Sworn before me at the city of Winnipeg, in the county of Selkirk, this 22nd day of October, A.D., 1890.

A. E. RICHARDS, *A Commissioner in B. R., etc.*

In the Queen's Bench.

In the matter of an application to quash by-laws 480 and 483 of the city of Winnipeg.

I, Wm. Hespeler, of the county of Selkirk in the province of Manitoba, financial agent, make oath and say :

1. That for the last seventeen years I have been a resident in the province of Manitoba.
2. That for upwards of seven years I was a member of the board of education for the said province.
3. To my knowledge, His Grace Archbishop Taché, archbishop of the Roman catholic ecclesiastical province of Manitoba, has been a member and chairman of the catholic section of the late board of education for four years, and I believe for a great deal longer.
4. That priests and leading laymen of the Roman catholic church were members of the catholic section of said board, and a number of priests of said Roman catholic church were inspectors of schools under said board.
5. I am satisfied that the school acts in force in this province prior to the first day of May last, were acceptable to the Roman catholic church.

WM. HESPELER.

Sworn before me at the city of Winnipeg, in the county of Selkirk, this 21st day of October, 1890.

R. M. THOMPSON, *A Commissioner in B. R., &c.*

In the Queen's Bench

In the matter of an application to quash by-laws 480 and 483, of the city of Winnipeg.

I, Alexander Polson, of the city of Winnipeg, in the county of Selkirk, in the province of Manitoba, health inspector, make oath and say :

1. That for a period of fifty years I have been a resident in the province of Manitoba.
2. That schools which existed prior to the province of Manitoba entering confederation were purely private schools and were not in any way subject to public control nor did they in any way receive public support.
3. No school taxes were collected by any authority prior to the province of Manitoba entering confederation and there were no means by which any person could be forced by law to support any of said private schools. I think the only public revenue of any kind then collected was the customs duty usually four per cent.

ALEXANDER POLSON.

Sworn before me at the city of Winnipeg, in the county of Selkirk, this 22nd day of October, A.D., 1890.

J. H. MUNSON, *A Commissioner in B. R., &c.*

In the Queen's Bench.

In the matter of an application to quash by-laws 480 and 483 of the city of Winnipeg.

I, John Sutherland, of the parish of Kildonan, in the county of Selkirk, in the province of Manitoba, farmer, make oath and say :

1. That for the period of fifty-three years I have been a resident in the province of Manitoba.

2. That schools which existed prior to the province of Manitoba entering confederation were purely private schools, and were not in any way subject to public control nor did they in any way receive public support.

3. No school taxes were collected by any authority prior to the province of Manitoba entering confederation, and there were no means by which any person could be forced by law to support any of said private schools. I think the only public revenue of any kind then collected was the customs duty, usually four per cent.

JOHN SUTHERLAND.

Sworn before me at the city of Winnipeg, in the county of Selkirk, this 22nd day of October, A.D., 1890.

T. H. GILMOUR, *A Commissioner in B. R., &c.*

In the Queen's Bench.

In the matter of an application to quash by-laws 480 and 483 of the city of Winnipeg.

Upon reading a summons herein dated this 7th day of October, 1890, and upon reading the affidavits and papers filed, and upon hearing the attorney on behalf of the applicant, John Kelly Barrett, and of the said the city of Winnipeg.

I do order that the said summons be, and the same is hereby dismissed with costs to be paid by the said John Kelly Barrett, of the said the city of Winnipeg, forthwith on taxation thereof by the master.

A. C. KILLAM, *J.*

Dated at Chambers this 24th day of November, 1890.

In the Queen's Bench.

IN RE BY-LAWS NOS. 480 AND 483, CITY OF WINNIPEG.

November 24th, 1890.

KILLAM, *J.*

This is an application to quash two by-laws of the municipal corporation of the city of Winnipeg, numbered 480 and 483. The application is made under the 258th section of the municipal act, 53 Vic., c. 51 M.

By-law no. 480 is that passed for levying a rate for municipal and school purposes in the city of Winnipeg for the year 1890. It recites the aggregate amount necessary to be raised to meet interest on debentures and ordinary current municipal and school purposes without distinction, and the total value of the rateable property in the city as shown by last revised assessment rolls, and enacts that there shall be raised, collected and levied, a rate of two cents on the dollar upon the whole assessed value of the real and personal property in the city of Winnipeg according to such rolls for meeting the expenditures mentioned.

By-law no. 483 simply amends the former by-law. It recites that the property of certain corporations is exempt from ordinary municipal taxation and liable only for school rates and that it is desirable to distinguish the rates providing for city schools, but so that the total several rates shall not exceed two cents on the dollar, and proceeds to amend the other by-law so as to make the rate 15. 4-5 mills on the dollar for interest

on debentures and the ordinary current municipal expenditure for the year ; and 4. 1-5 mills for school purposes for the year.

The summons asks that these by-laws be quashed "for illegality and that for the following among other grounds : That because by the said by-laws the amounts to be levied for school purposes for the protestant and Roman catholic schools are united, and one rate levied upon protestants and Roman catholics alike for the whole sum." No other ground is specifically taken in the summons.

The applicant shows that he is a rate-payer and a resident of the city of Winnipeg, and a member of the Roman catholic church, and that the effect of these by-laws is that one rate is levied upon all protestant and Roman catholic rate-payers in order to raise the amount required for school purposes, and the result to individual rate-payers is "that each protestant will have to pay less than if he were assessed for protestant schools alone, and each Roman catholic will have to pay more than if he were assessed for Roman catholic schools alone."

By the Manitoba school act passed in 1881, 44 Vic., 3rd sess., c. 4, and the previous statutes of this province, the public schools were under the control of a body known as the board of education, divided into two sections, composed respectively of the protestant and Roman catholic members of the board, and two superintendents, one being taken from each section of the board. Under the various statutes enacted from time to time, provisions were made for the formation in different ways of school districts under the control of the different sections of the board and the corresponding superintendents. The system which finally prevailed was first adopted in 1875 by the act, 38 Vic., c. 27, M., but various amendments in details were made from time to time. The last complete act was that of 44 Vic., of which amendments are found in the statutes of nearly every year previous to 1890. Under this legislation the school districts were directly governed by school trustees elected respectively by protestant and Roman catholic ratepayers who constituted in each district a body corporate known finally as "The School Trustees for the Protestant—or Catholic as the case might be—School District of _____ number _____ in the Province of Manitoba." See 38 Vic., c. 27 ; 42 Vic., c. 2 ; C. S. M., c. 62 ; 44 Vic., 3rd sess., c. 4 ; 48 Vic., c. 27, s. 23. These school districts, protestant and catholic respectively, were wholly independent of each other, and might cover the territory wholly or partially. In cases of incorporated cities and towns, the respective districts of each denomination were usually co-terminous with the cities or towns themselves. See 44 Vic., c. 4, s. 15 ; 47 Vic., c. 37, s. 4 ; 47 Vic., c. 54, s. 2.

With the exception of some limited rates charged to non-residents having children attending the schools, the moneys for the support of schools were derived partly from grants by the legislature of provincial moneys, and partly by direct taxation levied by the trustees themselves or by the municipal officers or partly by each.

The sums granted by the legislature were apportioned between the two sections of the board of education for distribution by them among their respective schools. Provision was made to secure the levying of the taxes for the support of the schools in the protestant school districts upon the property of protestants alone, and in Roman catholic districts, upon that of Roman catholics alone, with an apportionment between them of taxes upon the property of corporations and of those persons who could not be considered to belong to either body. See 44 Vic., 3rd sess., c. 4, ss. 28, 30, 31, 32 ; 47 Vic., c. 37, s. 11.

One method of realizing by assessment was the submission by the trustees of a school district to the council of the municipality in which the district was situate, of an estimate of the sums required by such trustees for school purposes, during the current school year, the municipal council being required to levy and collect the sums by assessment upon the real and personal property, in the district of the protestants and Roman catholics respectively. See 44 Vic. c. 4. ss. 25, 27, 28, 30, 31, 32 ; 46 & 47 Vic. c. 4. s. 8. 47 Vic. c. 37. ss. 8, 10, 11 ; 48 Vic. c. 27. s. 9 ; s-ss (a) (f) s. 10. s-s (d), s. 17, s-s (d) 50 Vic. c. 18, ss. 7, 8.

By the 182nd section of the public schools act, 53 Vic., c. 38 M. all of these former statutes were repealed, and by that and the next preceding act, c. 37, the legis-

lature assumed to establish an entirely different system. A department of education is created to consist of the executive council or a committee thereof with certain prescribed powers in reference to education, and provision was also made for the election and appointment of an advisory board with certain defined functions. Approximately it may be said that these bodies took the place of the old board of education.

By section 3 of the public schools act, "all protestant and catholic school districts, together with all elections and appointments to office, all agreements, contracts, assessments and rate bills heretofore duly made in relation to protestant or catholic schools, and existing when this act comes into force, shall be subject to the provisions of this act."

By section 4, the term for which each school trustee held office was to continue as if created under the act. By section 86, sub-sec. 5, the board of school trustees in cities, towns and villages is "to prepare from time to time and lay before the municipal council of the city, town or village on or before the first day of August, an estimate of the sums which they think requisite for all necessary expenses of the schools under their charge."

By the 90th section, the council of every rural municipality is to levy on the taxable property in each school district the sum required by such district in addition to the legislative grant and a general municipal levy provided for by the 89th section.

By the 92nd section, the municipal council of every city, town and village is to "levy and collect upon the taxable property within the municipality in the manner provided in this act and in the municipal and assessment acts, such sums as may be required by the public school trustees for school purposes."

By section 93 the taxable property in a municipality for school purposes, is to include all property liable to municipal taxation and also all property exempted by the council from municipal and not from school taxation.

By the 179th section, in cases where, before the coming into force of the act, catholic school districts had been established, covering the same territory as any protestant school districts, such catholic school districts were upon the coming into force of the act to cease to exist. By the 183rd section, the act was to come into force on the first day of May, 1890.

By the 5th section "all public schools shall be free schools." By the 6th section, "religious exercises in the public schools shall be conducted according to the regulations of the advisory board," with provision for excusing the attendance upon such exercises of any child whose parent or guardian may so desire. By the 8th section, "the public schools shall be entirely non-sectarian, and no religious exercises shall be allowed therein except as above provided."

It is shown that on and prior to the 30th April last, a school district which had some years before been established, existed in the city of Winnipeg and that such district was under the direction and management of the corporation known as "The School Trustees for the Catholic School District for Winnipeg, No. 1 in the Province of Manitoba" that this corporation had established and in operation a number of schools in Winnipeg under the provisions of the various provincial statutes relating to schools to one of which the applicant has been in the habit of sending his children for instruction; that this latter school is still continued with the same teaching and religious exercises as previously and the applicant's children still attend it.

While it is to be noted in this connection, that it does not appear under what authority this particular school is now conducted, or whether the teaching and religious exercises referred to are warranted by the regulations, if any, of the advisory board, I do not think that anything turns upon these points. It also appears that on the 28th of April last, there were presented to the clerk of the city of Winnipeg an estimate and requisition in writing, of "The Board of School Trustees for the Protestant School District of Winnipeg, No. 1, in the Province of Manitoba," for the levy and collection by the city council of \$75,000 for the school year 1890, accompanied by a list of the names of those liable to be assessed for the support of protestant schools, and that on the 29th of April last, a similar estimate and requisition were submitted on behalf of the "School Trustees of the Winnipeg Catholic School District," for the

levy of \$2,550 for the support of their schools for the year 1890, with a list of names of persons liable to assessment for the same. It is shown that these estimates and requisitions were submitted to and approved by the city council, and are those on which the by-laws, in so far as they impose a rate for school purposes are based. It is not contended that if the public schools act is valid and in force it was improper to levy a rate based on these estimates alone.

The contention of the applicant is, that the old law is still in force, and that the amounts of these estimates should have been levied separately upon protestant and Roman catholic rate-payers. The argument for this view is based upon a claim that the public schools act of 1890 is *ultra vires* of the provincial legislature, and that the repeal of the former statutes was intended to operate only for the purpose of substituting the one system for the other, and should be deemed inoperative. It is sufficient however, for present purposes to consider whether it was *intra vires* of the legislature to establish such a system of schools as is provided by the new act, and to authorize the raising of money for their support by a general assessment upon the property of all irrespective of religious belief and without providing for the support of separate schools for any class.

I have referred to the old acts as shortly as possible, rather in order to explain the form of the objection taken in the summons and as illustrative of one system which the applicant contends to have been within the powers of the legislature to establish, than because I can conceive that the adoption at one time of such a system could limit the authority of the legislature thereafter.

By the second section of the statute, usually known as the Manitoba act, 33 Vic., c. 3 D., confirmed by the Imperial act, 34 and 35 Vic., c. 28, the provisions of the British North America act, 1867, "Except those parts thereof which are in terms made, or by reasonable intendment may be held to be specially applicable to, or only to affect one or more, but not the whole of the provinces" then composing the dominion, and except so far as the same might be varied by the Manitoba act itself, were to "be applicable to the province of Manitoba in the same way, and to the like extent as they apply to the several provinces of Canada, and as if the province of Manitoba had been one of the provinces originally united by the said act."

By the British North America act, 1867, section 92, "In each province the legislature may exclusively make laws in relation to matters coming within the classes of subjects next hereinafter enumerated, that is to say" "(2) Direct taxation within the province in order to the raising of a revenue for provincial purposes" "(8) Municipal institutions in the province." And by section 93, "In and for each province, the legislature may exclusively make laws in relation to education, subject and according to the following provisions: (1) Nothing in any such law shall prejudicially affect any right or privilege with respect to denominational schools which any class of persons have by law in the province of the union; (2) All the powers, privileges and duties at the union by law conferred and imposed in Upper Canada on the separate schools and school trustees of the queen's Roman catholic subjects, shall be, and the same are hereby extended to the dissentient schools of the queen's protestant and Roman catholic subjects in Quebec; (3) Where in any province a system of separate or dissentient schools exists by law at the union, or is thereafter established by the legislature of the province, an appeal shall lie to the governor general in council from any act or decision of any provincial authority affecting any right or privilege of the protestant or Roman catholic minority of the queen's subjects in relation to education." A fourth sub-section provides for the enactment by the parliament of Canada, so far as may be necessary, of laws requisite to the carrying out of the decision on such appeal.

By the 22nd section of the Manitoba act, "In and for the province the said legislature" (*i. e.*, the provincial legislature) "may exclusively make laws in relation to education, subject and according to the following provisions: (1) Nothing in any such law shall prejudicially affect any right or privilege with respect to denominational schools which any class of persons have by law or practice in the province at the union;

(2) An appeal shall lie to the governor general in council from any act or decision of the legislature of the province, or of any provincial authority, affecting any right or privilege of the protestant or Roman catholic minority of the queen's subjects in relation to education." A third sub-section is added similar to sub-section 4 of the 93rd section of the British North America act.

Now it is obvious that if there were merely the authority to legislate in relation to education without the limitations imposed by these sub-sections, it would be quite competent for the provincial legislature to enact such a statute as the public schools act. It is in the sub-sections that the difficulty lies. It appears to me that these sub-sections can only be properly understood by a comparison of them with the corresponding limiting sub-sections of the British North America act, 1867, and by a consideration of the laws of the four original provinces of the dominion, at the time of their union, as well as that of the law and practice with reference to education in this portion of British North America, at the time of its union with Canada. In each of the provinces originally united to form the dominion of Canada, there existed at the union, a system of public schools supported, partly by grants of money by the provincial legislature out of the general funds of the province and partly by direct taxation through municipal bodies or boards of school trustees or commissioners, with, in Lower Canada and New Brunswick, an option to localities to substitute voluntary subscriptions for compulsory taxation. There was, however, this difference, that in Nova Scotia and New Brunswick there was no provision for the support of separate schools for any class in a similar way or for the exemption of any class from liability to be taxed for the support of the general system, as there was in the old province of Canada.

Of the latter province there were, as is well known, two great political divisions, at one time forming separate provinces for which the laws in some respects differed. In Upper Canada, now the province of Ontario, the public schools were regulated by the acts C. S. U. C. cc. 64, 65 with some amendments, the most important of which were contained in the act 26 Vic. c. 5. By the second of these acts, protestants could establish separate schools in school sections in which the teachers of what were called the common schools were Roman catholics, and were then exempted from contributing to the support of the common schools, by sending their children to, or contributing to a certain extent to the support of such separate schools. And by the same act as amended by the third one mentioned, similar provision was made for enabling the Roman catholics in any school section to establish separate schools for themselves, and to become exempt from contributing to the support of the common schools, as long as they should continue to be supporters of such separate schools. For the purposes of these separate schools, protestant or Roman catholic, it was requisite that there should be a certain number of the particular religious faith to initiate the proceedings necessary to the establishment of such separate schools.

In Lower Canada, now the province of Quebec, the public schools were regulated by the act C. S. L. C. c. 15 with some amendments. If the rules and regulations for the government of a common school were not satisfactory to any number of the inhabitants of a municipality professing a religious belief different from that of the majority, these inhabitants could establish dissentient schools under the government of their own trustees and become exempt from taxation for school purposes by any but these trustees where there were such.

Both in Upper and in Lower Canada, the supporters of the separate or dissentient schools were by express enactments entitled to have proportionate shares of provincial moneys granted for the support of common schools, applied in aid of such separate or dissentient schools and to have rates levied for the support of the latter upon those of the appropriate classes respectively.

In Nova Scotia the schools were regulated by the acts R. S. N. S. [3rd series] c. 58 ; 28 Vic., cc. 28, 29 ; 29 Vic., c. 30 ; and in New Brunswick by the act 21 Vic., c. 9 ; in each case with some subsequent unimportant amendments. Upon the face of the statutes, it is clear that in Nova Scotia these schools were not in any respect denominational in the usual sense of that term. For New Brunswick, any possibility of con-

tention that they were denominational in the sense in which that term is used in the British North America act, 1867, is precluded by the decision of the supreme court of New Brunswick, in *Ex parte Renaud*, 1 Pugs. N.B.R., 273; 2 Cartwr. Cas. 445 affirmed on appeal by the judicial committee of the privy council. The reasoning in this case would also seem to apply to the common schools of Upper Canada. In Lower Canada, an element of a denominational character not found in the other provinces, was attached to the common schools in a requirement that the text books relating to religion and morals, were to be chosen by the officiating priest or clergyman of each school section, for use in the schools by children of his religious belief. See C. S. L. C. c. 15, s. 65, ss. 2.

From the judgments in the New Brunswick case referred to, it appears also that at the union there existed in that province, distinctively denominational schools, to which the provincial legislature had from time to time made grants of public moneys. The same was also to some extent the case in Nova Scotia, and I believe in the old province of Canada.

There were then two wholly different sets of circumstances existing in Canada and the maritime provinces when they were united, to which the limitations in the subsections of the 93rd section of the confederation act became applicable. In the former there were what I conceive to have been denominational schools recognized by law, the supporters of which could invoke the authority of the law to maintain them by compulsory assessments upon their co-religionists and could, by so doing, relieve themselves from liability to assessment for the support of the common schools, and were by law entitled to have apportioned to them a share of the provincial funds granted in aid of common schools. Thus there were distinct classes of persons having distinct rights and privileges in respect of denominational schools, among which was that of obtaining immunity from taxation for the support of the common schools. This immunity could well be said to be a right or privilege in respect of denominational schools as being dependent upon the establishment and support of such schools.

In the maritime provinces all could be compelled to contribute to the support of the public schools by direct taxation without reference to religious beliefs or the existence of denominational schools, and there was no recognizable right to have the latter maintained in any way at the public expense or by any system of taxation.

When, however, we come to Manitoba, we are met at the outset by the difficulty that there was no public school system supported by public funds or by any mode of taxation. The existence of such in the other provinces served to determine whether there was a right to immunity from such taxation or not. Here, that indication is wholly wanting.

The position of affairs with reference to education in the territory constituting the province of Manitoba at the time of its union with Canada, is distinctly stated by his grace the archbishop of St. Boniface in an affidavit filed in support of the motion as follows: "2. Prior to the passage of the act of the dominion of Canada passed in the thirty-third year of the reign of her majesty Queen Victoria, chapter three, known as the Manitoba act, and prior to the order in council issued in pursuance thereof, there existed in the territory now constituting the province of Manitoba, a number of effective schools for children. 3. These schools were denominational schools, some of them being regulated and controlled by the Roman catholic church and others by various protestant denominations. 4. The means necessary for the support of the Roman catholic schools were supplied to some extent by school fees paid by some of the parents of the children who attended the schools and the rest was paid out of the funds of the church contributed by its members. 5. During the period referred to, Roman catholics had no interest in, or control over, the schools of the protestant denominations, and the members of the protestant denominations had no interest in, or control over, the schools of the Roman catholics. There were no public schools in the sense of state schools. The members of the Roman catholic church supported the schools of their own church for the benefit of Roman catholic children and were not under obligation to, and did not contribute to the support of any other schools. 6. In the matter of education, therefore, during the period referred to, Roman catholics were, as a matter of custom and practice, separate from the rest of the community and their schools were all conducted according to the distinctive views and beliefs of Roman catholics as herein set forth."

And in two affidavits filed in opposition to the motion it is stated, "That schools which existed prior to the province of Manitoba entering confederation, were purely private schools, and were not in any way subject to public control, nor did they in any way receive public support. No school taxes were collected by any authority prior to Manitoba entering confederation, and there were no means by which any person could be forced by law to support any of said private schools."

While, then, these supplement to some extent, the affidavit of his grace, they are in no way inconsistent with it, and taken altogether the affidavits show with sufficient clearness, the state of affairs with reference to which the 22nd section of the Manitoba act must be construed.

Now that section differs from the corresponding section of the original confederation act in four particulars ; first, in the insertion in the first sub-section of the words "or practice" to which so much importance has been attached in argument ; secondly, in the omission of any clause corresponding to the second sub-section of the original act ; thirdly, in the extension of the right to appeal to the governor general in council to acts or decisions of the provincial legislature ; and fourthly, in the right of appeal being given absolutely and not conditionally upon the previous existence or subsequent establishment of a system of separate or dissentient schools.

And here, I must say with reference to an argument that the third sub-section of the 93rd section of the original act is one applicable to the whole of the provinces of the dominion, and therefore, by the terms of the second section of the Manitoba act, to be read into the latter act, in addition to the 22nd section of the latter, that this 22nd section gives power to the legislature to make laws in relation to education, subject and according to certain provisions, and that if the reading into the act of any portion of the original 93rd section, would involve either an extension or a limitation of the powers of the provincial legislature beyond those fixed by the terms of this 22nd section, there would be an inconsistency with the Manitoba act, which is excluded by the express terms of its second section. The course of the legislation and the meaning of the first statute, are of the greatest importance in interpreting the second, but I cannot consider any portion of the 93rd section of the former to be incorporated into the second act.

The first question naturally arising is, as to whether the public schools act itself, creates a system of denominational schools, or assumes to compel any class to support denominational schools other than their own. Upon the face of the statute it does not. The affidavit of his grace the archbishop, however, appears to be intended to lay a foundation for an argument, that what are called in this act "public schools," are really schools of a protestant denominational character, although the act upon its face declares that they are to be unsectarian.

After setting forth the importance which Roman catholics attach to the combination of religious with secular instruction, the use of religious exercises in schools ; the supervision of the church over the schools ; training of their children in the doctrines and faith of their church ; the appointment of teachers who are not only members of that church, but also thoroughly imbued with its principles and faith and who recognize its spiritual authority and conform to its direction and the use of a certain class of text books, he goes on to say, that the church regards the schools provided for by "the public schools act" "as unfit for the purpose of educating their children and the children of Roman catholic parents will not attend such schools, 'but that' protestants are satisfied with the system of education provided for by the said act" and "are perfectly willing to send their children to the schools established and provided for by the said act" that "such schools are in fact, similar in all respects, to the schools maintained by the protestants under the legislation in force immediately prior to the passage of the said act." He then proceeds : "The main and fundamental difference between protestants and Roman catholics with reference to education is, that while many protestants would like education to be of a more distinctly religious character than that provided for by the said act yet they are content with that which is so provided and have no conscientious scruples against such a system ; the catholics, on the other hand, insist upon education being thoroughly permeated with religion and religious aspects."

In so far as there is any material in reply to this affidavit, it does not appear to be contradicted. Indeed, it seems rather to be supported upon material points as regards the adherents of the presbyterian church by the affidavit of the Rev. Dr. Bryce.

Here, however, I cannot conceive myself to be bound by, or confined to affidavit evidence. I am interpreting statutes and in so doing, I am at liberty to take judicial notice of the circumstances with respect to which they are to be construed. I do not say this because I conceive that there is anything really untrue or intended to mislead or to give a false colouring to beliefs in any of the affidavits. Indeed they appear to me to offer in most respects a very fair view of the relative attitudes of most protestants on the one side, and most Roman catholics and the Roman catholic church as a body on the other side. I am not, however, convinced that there is any such distinctive difference between protestants generally and Roman catholics generally upon this question, as to constitute a mark of denominational division and to make what would ordinarily be termed non-denominational schools, really "denominational" within the meaning of the Manitoba act as between protestants and Roman catholics.

From my experience I would say that very many protestants have as strong opinions upon the importance of combining religious with secular instruction as any Roman catholics. In support of this view, I need only refer to the report of the royal commission, appointed in 1886, to enquire into the working of the elementary education act in England and Wales.

The difficulty lies in arriving at any agreement upon the nature and extent of the religious training and in securing that it shall be satisfactorily conducted.

To insure the latter, most Roman catholics and very many protestants desire to have the education of the young conducted in denominational schools under the control of those connected with their respective churches. The evidence of this is found in the existence and maintenance of just such denominational schools wholly apart from institutions of a collegiate character to which reference was made in *Ex parte Renaud* and which are maintained by protestants and attended by children of protestants in all parts of Canada as elsewhere.

The question whether wholly, or how far the public schools should be devoted to secular training, is a grave one, upon which I have not now to express an opinion, but it is impossible not to see that there is much reason to believe that the non-sectarian system tends to the exclusion from the schools, of the religious instruction, to which so many naturally attach the greatest importance; or to make the religious exercises and training conform to the views of the majority in the state. But if the school authorities act improperly, or without proper judgment, religious exercises and training as offensive to many protestants as to any Roman catholics, may find their way into the schools.

The controversy is an old one, and its whole history appears to show that it is one between denominational and non-denominational schools, and that those established under the public schools act, are not denominational in the sense of that controversy, or of the Manitoba act, or the British North America act, 1867, which must be deemed to speak with reference to that controversy.

These views are supported by the judgment in the New Brunswick case before referred to, the arguments in which I shall not now delay to repeat. I am not aware of the existence of any extended report of the opinions of the judicial committee of the privy council in that case. The only reference to the appeal that I have seen, is that found in 2 Cartwr. Cas. on the B. N. A. act at page 486, which purports to have been taken from the *London Times*, of the 18th of July, 1874, and which states merely that "Lord Justice James after conferring with the other members of the committee gave judgment without calling upon the respondents," and that "their lordships concurred in the opinions of the court below, and would advise her majesty that the appeal be dismissed with costs."

Now the rights and privileges protected by the first sub-section are those with respect to denominational schools which some class or classes of persons had before the union.

I have shown how it may be said that the right to obtain immunity from taxation for the support of the common schools, in the old province of Canada, could be said to

be a right or privilege with respect to denominational schools, and to have been possessed by classes of persons. It is to be noticed that it was enjoyed, not as directly dependent upon belief in denominational schools as the only proper system, or upon support of any but the state system of separate or dissentient schools, and only if such should be established and kept up, which, if there were not sufficient of the requisite religious views or desirous of maintaining them could not by law be done in Upper Canada or in practice in either portion of the province.

But under the state of affairs existing here before the union with Canada, there was simply an absence of any law requiring any person to contribute to the support of schools. It was not dependent upon or connected with denominational schools, and cannot be said to have been either by law or practice a right or privilege with respect to denominational schools.

But it is necessary to consider whether the public schools act in consequence of its effect upon denominational schools themselves or the practice of establishing, maintaining and having their children educated in denominational schools which is shown to have been exercised by certain classes before the union, prejudicially affects any right or privilege in respect of such schools which these classes had at the union.

The act in no way prohibits attendance upon or the maintenance of denominational schools or attempts to make attendance upon the public schools compulsory; it is, however, suggested that the act prejudicially affects such rights or privileges in two ways. First, by establishing in competition with the denominational schools, a system of free schools supported by the public funds, and thereby placing the denominational schools at a great disadvantage, and secondly, by withdrawing from the hands of those who would be desirous of supporting denominational schools, funds which they would otherwise devote to that purpose.

While in practice, the denominational schools existing before the union, were not subject to the competition referred to, it was quite competent for any person or persons desirous of doing so, to establish and maintain non-denominational schools free or otherwise. By right or privilege, I cannot conceive that mere absence, in fact, of something which would render another thing less valuable is meant. The argument is really a plea for the monopoly of educational privileges by certain institutions or bodies or by institutions or bodies of a certain character. To such a monopoly there was no recognized right or privilege, either by law or practice. If there was no right to be free from competition there was none such to be free from the competition of free schools or of those supported by the state. The circumstances existing in the older provinces and the general nature of the school systems in America, suggest at once that it must have been contemplated in the enactment of the Manitoba act that the legislature of Manitoba should be at liberty to establish a system of free non-denominational public schools, and provide for their support by grants of provincial funds or direct taxation or by both methods. Under the powers given, it would be open to the legislature to make laws to encourage or to restrict education, provided the protected rights and privileges were not prejudicially affected, but we may well assume that encouragement rather than restriction would be anticipated. Certainly it was intended to be open to the legislature to determine in its wisdom that popular ignorance is an evil, and to seek to guard against such by providing for all, at the public expense, free secular education of such character as to it should seem proper. It may be that the opportunities thus offered would naturally draw to the public schools, pupils who would otherwise attend denominational schools and contribute to the support of the latter and thus enable those in charge of the latter to maintain them at a higher degree of efficiency. It may be, on the other hand, that the competition would only stimulate the supporters of denominational schools to greater exertions and insure a higher standard in such schools; in either view, however, the effect would be an indirect one, and it would rather be an effect upon the schools themselves and their supporters than upon any right or privilege with respect to such schools. It does not appear to me that in the non-existence before the union of competition of that character there can be recognized a right or privilege with respect to denominational schools, existing either by law or by practice.

It was, as I think, beyond question that it was intended that the legislature should be able to make laws for providing against popular ignorance as being an evil, and to authorize the incurring of expense for the purpose, and the levying of taxes to meet such expense as upon any other subject within its powers. I am unable, therefore, to regard the circumstance that in some cases the expense thus occasioned to individuals may render them less able or less willing to contribute to the support of denominational schools, as showing that the legislation prejudicially affects a right or privilege in respect of such schools. The effect is so indirect and remote that I cannot take it to be within the act, and it is precisely the same effect that would be produced by taxation for other purposes within the powers of the legislature.

It is, however, urged that even though the natural meaning of the language of the statutes would lead to such conclusions as these, the history of the controversy respecting separate or denominational schools in the other provinces and elsewhere, and the mode in which it was settled for the other provinces by the original confederation act, and the changes made in the wording of the Manitoba act, show that it was intended that a more enlarged view of the protected rights and privileges should be taken.

Now in the first place, it is not correct as claimed, that the original Act assumed to settle the question for Canada; it merely guarded rights and privileges already given in each province. In Nova Scotia and New Brunswick, the question still remains an open one. There was, then, no intention under the original act, that the question should be settled for Canada generally in favour of the immunity of any class from taxation for the support of non-denominational public schools, excepting so far as such immunity had previously existed by law.

Counsel for the applicant forget that the question has two sides, and that there are many who deem it more for the interest of the state to encourage only one system of schools, and that the definite settlement of such an important question ought naturally to be expressed in clear language. It was evidently considered that the rights of minorities in Lower Canada should be extended or at any rate more distinctly preserved so as to be securely placed upon the same basis in Ontario and Quebec. When, therefore, parliament intended to settle what had not previously been settled, or which it feared had not previously been settled, it did so.

While the older provinces had had before the union, their own legislatures, representative of popular opinion to settle this question for them, none such had existed here, and it is difficult to believe without clear evidence that parliament had considered, and settled the matter, that parliament would have desired to preclude this portion of Canada from considering this question for itself. The language of the British North America act was sufficiently definite, having reference to the express legislation of the previous provinces, but with no express law here to which reference could be made, it was certainly as important as in the case of Quebec, to make the position clear if it was to be as the applicant contends.

I attach very little importance to the words "or practice" as definitely showing any such intention. The position of affairs here before the union was anomalous. Both the extent of the territorial jurisdiction of the Hudson's Bay Company and the nature of its authority had been regarded as very doubtful. Its government was recognized, however, as being the *de facto* one, and the Manitoba act shows in other parts, the intention to recognize what had been regarded as rights under the old regime irrespective of strict law. Under such circumstances, the introduction of the words was quite natural and I cannot take them as adding to the ordinary sense of the whole enactment. The change in the second sub-section from the language of the third sub-section of the 93rd section of the original act appears to me, infinitely more important. In the original act the appeal to the governor general in Council was given only in provinces in which there had existed, prior to the union, a system of separate or dissentient schools, or in which such should afterwards be established. In the case of Manitoba it was given absolutely which may be claimed to show that parliament contemplated that practically such a system had existed here before the union, or was at any rate secured by the first sub-section in connection with any system of public schools which might be established

by the legislature. It would be natural too, if this were the idea existing, that an appeal should have been given from an act of the legislature as well as from an act or decision of a provincial authority.

Now I must confess that I have not accounted satisfactorily to my own mind for this change of language. Little attention was paid to this sub-section upon the argument, and no suggestion was distinctly made upon it. Probably before the main question can be considered finally settled, or upon some appeal under the sub-section, a view may be suggested which will at once appear to be the true one. At present I can only suggest the alternative one, that it came about for much the same considerations as the introduction of the words "or practice." It may well have been felt that in view of the undetermined position of affairs, and of the absence of clear and express legislation to which reference could be made, it was advisable that the right of appeal should be more extended than in the case of the other provinces, and this appears to me to be the more reasonable and probable explanation. Now before the union, several classes of persons exercised the privilege of maintaining denominational schools in the territory now forming this province, of having their children educated in them, and of having inculcated therein the peculiar doctrines of their respective denominations. History teaches us that bigotry has frequently denied to minorities the exercise of some or all of these privileges. The right to continue their exercise is no unimportant one. Nay, if these privileges were attacked, they would soon appear of infinitely greater importance than the liability to pay taxes for the support of free non-sectarian public schools for the benefit of those choosing to take advantage of them. Taking then, the language of the union acts in its natural sense, important rights and privileges are guarded. It is not necessary to go beyond their natural meaning in order to give effect to any of the language used. I take the question here raised to be merely that of the liability of all property holders to be subjected to equal taxation for the support of free non-sectarian public schools which may be used by such as choose. The right to immunity from such taxation was not, under the original confederation act, generally established throughout Canada in favour of any class or classes; and if intended to be established here, one would have expected this to be indicated by more distinct language than is found in the Manitoba act. Such immunity was general here before the union and not in any way existing in respect of denominational schools, or in favour of any class or classes: the denominational schools did not, by law or practice, enjoy any recognized right or privilege to be kept free from any kind of competition.

The burden is naturally upon those who seek to limit the power of the legislature to choose from time to time, as circumstances change, between a sectarian and a non-sectarian system of public school education, or its exercise of the sovereign power of taxation in order to afford education free, if it thinks it necessary or advisable in the interests of the province, to any greater extent than is naturally involved in the language of the constitution. I am unable, therefore, to hold that the public schools act, if enacted at the outset of the union, would have been *ultra vires* in establishing this new system of schools and in authorizing the taxation complained of, without establishing or providing for the support of separate schools for any class. I think that it was quite competent for the legislature to abolish the system of separate schools, which it had established, and leave parties to recur to their voluntary denominational schools if they saw fit. That they will do so, his grace the archbishop states. In so doing, he practically admits that they are at liberty to revert to the system existing before the union, though he claims that they will do so under certain disadvantages, the indirect causing of which, by the adoption of the new system, I cannot consider to be within the saving clauses of the constitution.

Whether this be done, or whether Roman catholics submit wholly or partially, with heart burnings and dissatisfaction, to the new system of public schools, it is for the legislature and not for the courts to determine whether there can be such grave reasons of state as to warrant a disregard of the complaints of the minority. On the one hand, it has the example of other legislatures to show that it is not alone in deeming the reasons sufficient. On the other, many will doubt whether human wisdom is so far infallible as to warrant absolute reliance upon the sufficiency of these reasons.

I can merely repeat the language of the learned chief justice of New Brunswick, now the chief justice of Canada: "It may be a very great hardship that a large class of persons should be compelled to contribute to the support of schools to which they are conscientiously opposed or be shut out from what they have hitherto, under certain circumstances enjoyed, and be without remedy, but, by any such considerations, courts of justice ought not to be influenced; hard cases, it has been repeatedly said, make bad law, and it has also been justly remarked that if there is a general hardship affecting a general class of persons, it is a consideration for the legislature, not for a court of justice."

The summons must be dismissed with costs.

In the Queen's Bench.

In the matter of an application to quash by-laws 480 and 483 of the city of Winnipeg.

Required that this matter be entered upon the list of causes, matters and proceedings for hearing by the court in banc upon the application of John Kelly Barrett, by way of motion to reverse the order or decision of Mr. Justice Killam, pronounced herein on the twenty-fourth day of November instant, dismissing with costs the summons granted herein on the seventh day of October, 1890, to quash the by-laws above referred to.

The applicant complains of the whole of the said order and desires that the same should be reversed with costs, and that the said summons should be made absolute with costs, upon the grounds among others set forth in the said summons.

Dated this twenty-seventh day of November, A.D. 1890.

GERALD F. BROPHY, *Attorney for the Applicant.*

To the Prothonotary of the Court of Queen's Bench.

JUDGMENTS IN TERM.

TAYLOR, C.J.

The application to quash these by-laws raises the important question, whether the public schools act, 53 Vic., c. 38 (M. 1890), is one within the power of the legislature of this province to pass. It came in the first instance before my brother Killam, who, in a considered judgment upheld the validity of the act, and dismissed the summons. From his decision an appeal was taken, which has now to be disposed of.

The by-law no. 480, dated 14th July, 1890, provides for levying by assessment the amount required for the municipal and school purposes of the city of Winnipeg, for the current municipal year 1890. By-law no. 483, dated 28th July, 1890, amends the former by-law in several respects. Under these two by-laws a rate of two cents on the dollar is to be raised, levied and collected on the whole assessed value of the real and personal property in the city of Winnipeg, the proportion required for school purposes being four and one-fifth mills on the dollar.

The only ground specifically stated in the original summons as that on which it is sought to quash these by-laws is, "Because by the said by-laws the amounts to be levied for school purposes for the protestant and catholic schools are united, and one rate levied upon protestants and Roman catholics alike for the whole sum." There is no question raised that the assessment in the manner provided for by these by-laws is not in accordance with the provisions of the public schools act.

It is claimed that the school law in force in the province before the passing of that act, and which it professes to repeal, is still in force. Under that earlier law there was one board of education, which for certain purposes acted as a united board, but which was also divided into two sections, a protestant section consisting of all the protestant members, and a Roman catholic section, consisting of the Roman catholic members. The school districts throughout the province were divided into protestant and catholic. The

protestant schools were under the control of the protestant section of the board, and the trustees of these schools were elected by the protestant ratepayers. The Roman catholic section of the board had in like manner entire control of the catholic schools, and the catholic ratepayers elected the trustees. There was also one superintendent of education for the protestant schools, and another for the catholic schools. The law also provided for levying the taxes for the support of schools in protestant school districts, upon the property of protestants alone, and in Roman catholic school districts upon Roman catholics only. Provision was also made for apportioning taxes derived from the property of corporations, or of persons who could not be considered to belong to either body. The grant made annually by the legislature for educational purposes was apportioned between the two sections of the board, for distribution among the schools under the charge of each respectively.

The objection to the public schools act is, that it is not one within the power of the provincial legislature to pass, having regard to the limitations upon their power of legislating on the subject of education, imposed by sec. 22 of the Manitoba act, 33 Vic., c. 3 (D., 1890).

That section is as follows:—"In and for the province the said legislature may exclusively make laws in relation to education, subject and according to the following provisions: (1) Nothing in any such law shall prejudicially affect any right or privilege with respect to denominational schools which any class of persons have by law or practice in the province at the union; (2) An appeal shall lie to the governor general in council from any act or decision of the legislature of the province, or of any provincial authority, affecting any right or privilege of the protestant or Roman catholic minority of the queen's subjects in relation to education; (3) In case any provincial law, as from time to time seems to the governor general in council requisite for the due execution of the provisions of this section, is not made, or in case any decision of the governor general in council, on any appeal under this section is not duly executed by the proper provincial authority in that behalf, then, and in every such case, and as far only as the circumstances of each case require, the parliament of Canada may make remedial laws for the due execution of the provisions of this section, or of any decision of the governor general in council under this section."

A section similar in character is found in the British North America act, as section 93. There are differences between the two sections, and when parliament, in the Manitoba act, used different language, it must be assumed that there was some definite intention in doing so. The differences between the two sections are the following:—Sub-section 1 of section 93, speaks of any right or privilege as to denominational schools which "any class of persons have by law in the province at the union," while in sub-section 1 of section 22, the right or privilege is spoken of as that which "any class of persons have by law or practice." Section 93 has as sub-section 2, a clause relating solely to the provinces of Ontario and Quebec which does not appear in section 22. In sub-section 3 of section 93, the words, "Where in any province a system of separate or dissentient schools exists by law at the union, or is thereafter established by the legislature of the province," are found immediately before what appears in section 22 as sub-section 4. Then sub-section 3 of section 93, provides for an appeal to the governor general in council only from any act or decision of any provincial authority, while sub-section 2 of section 22, says that an appeal shall lie "from any act or decision of the legislature of the province or of any provincial authority." Sub-section 4, section 93, is the same as sub-section 3 of section 22, there being no change in the language.

Possibly, there is no practical difference in the effect of the changed language in sub-section 2, as to an appeal from an act or decision of the legislature as well as from an act or decision of any provincial authority. At all events in *Board of Trustees of the Separate Schools of Belleville vs. Grainger*, 25 Gr. 570, Blake, V.C., seems to have been of opinion that, "act of any provincial authority" used in section 93 would include an act of the provincial legislature.

It is under section 22 of the Manitoba act that the question raised in the present case must be considered, and the decision of it must be governed by the provisions of

that section. By section 2 of the Manitoba act the provisions of the British North America act are made applicable to the province of Manitoba, "except those parts thereof which are in terms made, or by reasonable intendment may be held to be, specially applicable to, or to affect only one or more, but not the whole of the provinces now comprising the dominion, and except so far as the same may be varied by this act." As section 93 does not profess to settle the question of education, and of separate or denominational schools for the whole dominion, but only for the provinces of Ontario and Quebec, and the question of education in the newly formed province of Manitoba is dealt with specially and in somewhat varied language, there can be no doubt that section 93 is not the one which must govern the decision in this case. As, however, section 22 was undoubtedly based on section 93, the terms of the latter are material, but only in so far as they may afford assistance in arriving at the true construction to be placed on the section of the Manitoba act.

It was argued that when considering the meaning and intent of section 22, and applying its language, regard must be had to the condition of things existing in Upper Canada as to separate schools before confederation, and which led to section 93 finding a place in the British North America act. It is said that in construing an act, its history must be considered, and that statutes *in pari materia*, must be construed together, the construction of one applied to the other. Now, there is no doubt that the history of an act may be enquired into and considered by the court, where difficulty is found in construing it. The court must look not only at the words of the statute, but to the cause of making it, to ascertain the intent. *The King v. East Teignmouth*, 1 B & Ad., 249. Or, as it was expressed by Sir George Jessel in *Holme v. Guy*, 5 Ch., D. 905, "The court is not to be oblivious * * * of the history of law or legislation. Although the court is not at liberty to construe an act of parliament by the motives which influenced the legislature yet when the history of law and legislation tells the court, and prior judgments tell this present court, what the object of the legislature was, the court is to see whether the terms of the section are such as fairly to carry out that object and no other, and to read the section with a view of finding out what it means, and not with a view of extending it to something that was not intended." As Bramwell, B., said in *Attorney General v. Sillem*, 2 H. & C., 531, "so perhaps, history may be referred to, to show what facts existed, bringing about a statute, and what matters influenced men's minds when it was made."

Previous statutes, *in pari materia*, may and ought to be looked at, when there are earlier acts relating to the same subject, the survey must extend to them, for all are for the purposes of construction considered as forming one homogeneous and consistent body of law, and each of them may explain and elucidate every other part of the common system to which it belongs. *Rex v. Lordale*, 1 Burr, 445; *Duck v. Addington*, 4 T. R. 447; *Mosley v. Stonehouse*, 7 East, 174.

In many cases the courts have taken great liberties with the wording of statutes, in order to effect what they believed to be the intention of parliament. In *Caledonian Rail. Co., v. North British Rail. Co.*, 6 App., Ca. 122, Lord Selborne said "The more literal construction ought not to prevail if it is opposed to the intention of the legislature as apparent by the statute, and if the words are sufficiently flexible to admit of some other construction by which that intention will be better effected." And the court of appeal held in *Ex parte Walton*, 17 Ch., D. 746, that a statute may be construed contrary to its literal meaning when a literal construction would result in an absurdity or inconsistency, and the words are susceptible of another construction which will carry out the manifest intention.

All this is old law and was stated more than three hundred years ago in *Stradling v. Morgan*, Plowd. 199. "The judges of the law in all times past have so far pursued the intent of the makers of statutes, that they have expounded acts which were general in words to be but particular, where the intent was particular." Then after referring to several cases, the report proceeds, "From which cases it appears that the sages of the law heretofore have construed statutes quite contrary to the letter in some appearance; and those statutes which comprehend all things in the letter they have expounded to

extend to but some things ; and those which generally prohibit people from doing such an act, they have interpreted to permit some people to do it, and those which include every person in the letter, they have adjudged to reach some persons only ; which expositions have always been founded upon the intent of the legislature, which they have collected sometimes by comparing one part of the act with another, and sometimes by foreign circumstances, so that they have ever been guided by the intent of the Legislature which they have always taken according to the necessity of the matter, and that which is consonant to reason and good discretion."

The eminent American jurist Chancellor Kent, has said in his Commentaries at p. 462, "The reason and intention of the lawgiver will control the strict letter of the law, when the letter would lead to palpable injustice, contradiction and absurdity." The intention of the legislature is what ought to govern, and the object of the court must always be to ascertain what that intention is.

But after all, how is the intention of the legislature, the true meaning of a statute to be ascertained? The eminent jurist whose words have just been quoted says : "The true meaning of the statute is generally and properly to be sought from the body of the act itself." These extraneous helps in construing a statute seem resorted to when there is something doubtful in the wording of it ; where the words are susceptible of more than one meaning, or where the language used is such as to raise difficulties in its grammatical construction. Thus in *Hollingworth v. Palmer*, 4 Ex. 282, Parke B, dealing with a particular section of an act, said, "This section is certainly most incorrectly worded, and it is, therefore, necessary to modify its language in order to give it a reasonable construction. The rule we have always followed of late years is to construe statutes, like all other written instruments, according to the ordinary grammatical sense of the words used, and if they appear contrary to or irreconcilable with the expressed intention of the legislature, or involve any absurdity or inconsistency in their provision they must be modified so as to obviate that inconvenience, but no further." And Bramwell, B. when using the language already quoted in *Attorney-General v. Sillem*, was speaking of statutes of doubtful meaning, for he said, "In this, as in other cases of doubtful meaning, it is legitimate to solve that doubt by ascertaining the general scope and object of the enactment. * * * It may be a legitimate mode of determining the meaning of a doubtful document to place those who have to expound it in the situation of those who made it." So Lord Wensleydale said in *Philpott v. St. George's Hospital*, 6 H. L. 366, "We ought to look to the words of the statute, and to give these words their natural and ordinary meaning." The proper mode of construing an important statute was considered by all the common law judges of England when called in to advise the house of lords in the *Sussex Peerage Case*, 11 Cl. & F. 143. Their unanimous opinion was delivered by C. J. Tindale. "The only rule for the construction of acts of parliament is that they should be construed according to the intent of parliament which passed the act. If the words of the statute are in themselves precise and unambiguous, then no more can be necessary than to expound those words in their natural and ordinary sense. The words themselves alone do, in such case, best declare the intention of the lawgiver. But if any doubt arises from the terms employed by the legislature, it has always been held a safe means of collecting the intention to call in aid the ground or cause of making the statute, and to have recourse to the preamble which, according to C. J. Dyer, is a key to open the mind of the makers of the act, and the mischiefs which they intended to redress."

I have spoken of how the intention and meaning of the legislature is to be ascertained, but the question for an interpreter of a statute is not, properly, what the legislature meant, but what its language means. *Palmer v. Thatcher*, 3 Q. B. D. 353. Or, as the present lord chief justice of England said his course always is, to suppose that parliament meant, what parliament has clearly said, and not to limit plain words in an act of parliament by considerations of policy, *Coxhead v. Mullis*, 3 C. P. D., 442.

In the present case I do not see what assistance in answering the questions which arise here is to be got from an enquiry into the history of section 93 of the British North America act, or of the corresponding clause in the Manitoba act. Before confederation

there were in Ontario separate or dissentient schools in existence under an act of the parliament of Canada. The legislature which established these schools could at any time have put an end to them, and there can be no doubt the statesmen who framed the scheme of confederation intended by the provision in the British North America act, to secure that the provincial legislature, the body thereafter to deal with educational matters in Ontario, should not change the then existing state of things, but that it should be for ever continued. They also provided that all the powers, privileges and duties which were then conferred and imposed by law in Upper Canada on the separate schools and school trustees of Roman catholics should be extended to the dissentient schools of protestants or Roman catholics in Quebec. No provision was made for the provinces of Nova Scotia and New Brunswick in which at that time no separate schools existed by law. It cannot, therefore, be said that by this section 93, it was intended to settle for ever the question of separate schools in the dominion, for, if so, why was all mention of these two provinces omitted.

The argument was pressed that, by section 22 of the Manitoba act, parliament, in view of the controversy over separate schools in Ontario, could only have intended to secure for the Roman catholics of Manitoba the same rights and privileges as to separate schools which were by the British North America act secured for Ontario and Quebec. I cannot, however, see that parliament intended more than is expressed by the language used. It must be assumed that when the act came to be passed, parliament knew there were not at that time in the territory being organized as the province of Manitoba any separate or denominational schools existing by law. The act therefore says that, rights or privileges with respect to denominational schools which any class of persons had by law or practice, should not be prejudicially affected by future provincial legislation. The intention of parliament is plain, no future provincial legislation is to prejudicially affect any right or privilege as to denominational schools, if any such right or privilege exists, and whatever it may be. What the parliament intended is not at all doubtful, although, perhaps, it is not so easy to say what exact meaning should be attached to the language used. Surely, had it been intended to secure to Roman catholics, or to any other class of persons in Manitoba, the same right of having separate schools, as is provided for in the province of Ontario, parliament would have said so. Parliament had before it the express provisions of the British North America act, on this subject, and would, I think, most certainly have followed that act had the intention been to settle the matter as that act settled it for Ontario and Quebec. The inference which it seems to me should be drawn from the altered form of the section rather is, that Parliament intended that as the people of the older provinces had settled this question for themselves, so it should be left for the people of the province, then being formed, to settle it for themselves. While so leaving it parliament naturally inserted a provision to secure that existing rights and privileges, whatever these might be, should not be disturbed by the settlement they might make.

What the court has to deal with is, did any such right or privilege exist, and, if so, has such right or privilege been prejudicially affected by the public schools act?

The parts of section 22, which are of importance are, the section and first sub-section: "In and for the province the said legislature may exclusively make laws in relation to education, subject and according to the following provisions: (1) Nothing in any such law shall prejudicially affect any right or privilege with respect to denominational schools which any class of persons may have by law or practice in the province at the union."

It may be remarked here that when the court in New Brunswick dealt in *re Renaud*, 1 Pugs. N.B.R. 273, with the same words in section 93 of the British North America act, they held that they were not intended to distinguish between protestant and Roman catholics. It was held in the judgment delivered by the learned chief justice, now chief justice of the supreme court of Canada, that sub-section one meant just what it expresses, that "any," that is every "class of persons" having any right or privilege with respect to denominational schools, whether such class should be one of the numerous denominations of protestants or Roman catholics, should be protected in such rights. As the

judgment of the court in New Brunswick was affirmed on appeal by the judicial committee of the privy council, approving of the reasons given in the court below, it must be assumed that this was regarded by the ultimate court of appeal as the true construction of the sub-section.

Are then the members of the Roman catholic church in Manitoba a class of persons who had at the time of the union, by law or practice, any right or privilege with respect to denominational schools? And if so, does the public schools act prejudicially affect any such right or privilege?

Happily there is no dispute as to the facts, as to the state of affairs with reference to education, existing at the time of the union and upon which the claim to possess certain rights and privileges is based.

In an affidavit made by the archbishop of St. Boniface, and filed in support of the application, his grace says that, prior to the passing of the Manitoba act, "There existed in the territory now constituting the province of Manitoba a number of effective schools for children; (3) These schools were denominational schools, some of them being regulated and controlled by the Roman catholic church, others by various protestant denominations; (4) The means necessary for the support of the Roman catholic schools were supplied to some extent by school fees paid by some of the parents of the children who attended the schools, and the rest was paid out of the funds of the church, contributed by its members; (5) During the period referred to Roman catholics had no interest in or control over the schools of the protestant denominations, and the members of the protestant denominations had no interest in or control over the schools of Roman catholics. There were no public schools in the sense of state schools. The members of the Roman catholic church supported the schools of their own church for the benefit of Roman catholic children, and were not under obligation to, and did not contribute to the support of any other schools; (6) In the matter of education, therefore, during the period referred to, Roman catholics were, as a matter of custom and practice, separate from the rest of the community, and their schools were all conducted according to the distinctive views and beliefs of Roman catholics as herein set forth." In answer to the application, two affidavits were filed, made by Alexander Polson and John Sutherland, residents of the province for fifty years, and these are in no way inconsistent with the affidavit of his grace the archbishop. In each of them it is stated, "That schools which existed prior to the province of Manitoba entering confederation were purely private schools, and were not in any way subject to public control, nor did they in any way receive public support. No school taxes were collected by any authority prior to the province of Manitoba entering confederation, and there were no means by which any person could be forced by law to support any of said private schools. I think the only public revenue of any kind then collected was the customs duty, usually four per cent."

Had Roman catholics, as a class of persons, what can be considered or called rights and privileges within the ordinary meaning of these words as used in the act? There were schools established and carried on, the expense of which was defrayed by Roman catholics. Episcopalians and presbyterians had the same right and also carried on and defrayed the expense of schools. Every other protestant denomination had the same right, and so had every private individual. Any man could establish and carry on a school at his own expense if he chose to do so.

It seems to me the utmost the Roman catholics can be said to have had, was what may be called a moral right. Had the words "right or privilege" stood alone in the act, it could not, I think, be said they had any, which is prejudicially affected by the public schools act.

"A right" is in the *Imperial Dictionary* defined to be, "A just claim, or that to which one has a just claim; that which may be lawfully claimed of any other person * * * In law, that which the law directs, a liberty of doing or possessing something consistently with law." In *Bouvier's Law Dictionary* it is said to be "The correlative of duty, for whenever one has a right due to him, some other must owe him a duty." And in *Brown's Law Dictionary*, it is said to be, "A lawful title or claim to anything."

Wharton's Law Lexicon defines, "Right" as "a liberty of doing or possessing something consistently with law."

In the *Imperial Dictionary* "privilege" is defined as, "a right, immunity, benefit, or advantage enjoyed by a person or body of persons beyond the common advantages of other individuals, the enjoyment of some desirable right, or an exemption from some evil or burden: a private or personal favour enjoyed: a peculiar advantage." It is defined by *Webster* as "a right or immunity not enjoyed by others or by all." In *Bacon's Abr.*, vol. 8, p. 158, privilege is said to be "An exemption from some duty, burden, or attendance with which certain persons are indulged. * * * A particular disposition of the law which grants special prerogatives to some persons contrary to common right." *Comyn's Dig.*, says, "*Privilegium est jus singulare, seu lex privata, quæ uni homini vel loco conceditur.*" So, in *Mackeldy's Roman Law*, section 189, it is said, "Privilege in its general sense, denotes every peculiar right or favour granted by the law contrary to the common rule," and in section 190, "The privileged party may exercise it to its full extent and nobody is allowed to disturb him in doing so, hence he has a right to prohibit any other person who is not in the enjoyment of a similar privilege from assuming the same right."

In *Campbell v. Spottiswoode*, 3 B. & S. 769, the court had before it a case of newspaper libel, which it was claimed for the defence was a privileged communication. Crompton, J., dealing with this, spoke of what is a privileged communication in this way: "That is where from the particular circumstances or position in which a person is placed there is a legal or social duty in the nature of a privilege or peculiar right, as opposed to the rights possessed by the community at large." And Blackburn, J., said, "the meaning of the word is, that a person stands in such a relation to the facts of the case that he is justified in saying or writing what would be slanderous or libellous in any one else."

It seems then that rights and privileges, as used in the statute, must mean something special and peculiar, something not common to all the community. To be protected, they must be such as the class of persons seeking protection had, apart from the rest of the community, must be such as they possessed and others did not. That is the construction put upon the words by the court of queen's bench in England, in *Fearon v. Mitchell*, L. R. 7 Q. B. 690. Mitchell put up a building on plans submitted to, and approved by the local board, in which, for a number of years, he carried on an extensive business, selling cattle and sheep by auction. The board then set up a public market in the town, and laid an information against him to recover a penalty for selling at his own place and not in the public market, articles on which a toll was by the act authorized to be levied. The justices stated a case for the opinion of the court. On the argument, one ground of defence relied on was a proviso in the act, "no market shall be established in pursuance of this section, so as to interfere with any rights, powers or privileges enjoyed within the district by any person, without his consent." The argument was, that Mitchell's premises were built under the express sanction of the local board, with a knowledge of the purpose for which they were to be used, and that by carrying on his business there for years, he had acquired rights, powers and privileges which were protected by that proviso. Cockburn, C. J., dealt with that argument thus: "this right which the respondent was enjoying at the time when this market-place was built was not, I think, a right within the meaning of the section. It was a right which he enjoyed only in common with the rest of her majesty's subjects. He had no exclusive right to carry on this business, and he had no greater right than anybody else with suitable premises, for setting up and carrying on a similar business. The word "right," especially when taken in connection with the words "powers or privileges," must mean rights acquired adversely to the rest of the world, and peculiar to the individual. Such a right having been acquired, it is but just that the statute should say that any powers exercised by the local authority, under the section, in setting up a market should not interfere with it; but it could never have been meant that the powers given for the benefit of the inhabitants of the particular district in setting up a market should not be exercised in consequence of some private individual or company having a business of the same description." And Blackburn, J., said: "The respondent had no

right, power or privilege to keep it up against any rival that chose to start, and consequently the local authority had power to set up this market, although it interfered with the respondent's business, which was simply an exercise of the same right as any one of the public had."

In the light of these authorities, I think Roman catholics had no rights or privileges, within the meaning of these words, had they stood alone. But when parliament introduced the term, "by practice," there can, I think, be little doubt, that it intended the words to be used in a wider sense, and had in view what I spoke of as "moral rights." Parliament intended, in fact, that whatever any class of persons was, at the time of the union, with the assent of, or at least without objection from the other members of the community, in the habit or custom of doing, in reference to denominational schools, should continue and should not be prejudicially affected by provincial legislation.

How then did things stand at the time of the union? All the schools were, his grace says, denominational schools, some of them being regulated and controlled by the catholic church and others by various protestant denominations. The means necessary for the support of the Roman catholic schools were supplied to some extent, by school fees paid by some of the parents of the children who attended the schools, and the rest was paid out of the funds of the church, contributed by its members. There can be no doubt that these schools were in the strict sense of the word denominational schools, in which the distinctive doctrines and principles of the Roman catholic church were taught, and naturally Roman catholic parents would send their children to these schools. From there being no other schools, as is placed beyond doubt by the affidavits on both sides, than denominational schools, no schools established by law, it is plain that the general public acquiesced in this state of things. They acquiesced in the Roman catholics being, in matters of education, as his grace says: "as a matter of custom and practice separate from the rest of the community." From the circumstance that as education was then carried on they had, in common with every other denomination, a right to establish and maintain schools, and in consequence of their doing so they were, in fact, separate from the rest of the community, but that was not because they had a positive right to be so,—it was merely an incident to their right to have schools.

Now, any right the Roman catholics had, at the time of the union, to establish and maintain schools in which the distinctive doctrines and principles of their church shall be taught, exists still. It is in no way interfered with by the public schools act. Any right they had, by custom or practice, to be separate from the rest of the community, in the matter of education they have unimpaired to-day. The public schools act does not prevent them from having their own denominational schools now, if they desire to have them. It does not require all the children of the province to attend the schools provided for by the act. The Roman catholic church can have schools, and Roman catholic parents can send their children to these schools as fully and as freely as they did at the time of the union. In these respects therefore, any rights or privileges the Roman catholics, as a class of persons had, with respect to denominational schools, have not been prejudicially affected.

It is said, however, that Roman catholics were not, at the time of the union compelled to support public schools, they were not taxed for the support of these. True, they were not, but there was then no law which required any person in the country to contribute for school purposes. And, as pointed out by my brother Killam, even this right or privilege, if it can be called one, was not dependent on, or connected with the existence of denominational schools. It cannot be said to have been, either by law or practice, a right or privilege with respect to denominational schools. If the Roman catholics had had no schools, they would have been equally as free from taxation for educational purposes. As stated in the affidavits of Polson and Sutherland, no school taxes were collected by any authority prior to the province entering confederation. The being free from taxation for schools was a right or privilege which they enjoyed only in common with every one else in the province. It was not a right which they enjoyed adversely to the rest of the community, something which they enjoyed beyond the common advantage of other individuals. They are not now, under the public schools act,

subjected to any exceptional tax. They are only subject to the same taxation as the other ratepayers of the country, so how can it be said that in this respect they are prejudicially affected?

It is, however, argued that by the public schools act a system of free schools supported by public funds is set up, and by reason of these, Roman catholic denominational schools are placed at a disadvantage. They are, it is said, exposed to unfair competition, while at the same time by the taxation for the public schools funds, which would have been available for, and appropriated by Roman catholic ratepayers to, the support of their own schools, are diverted from them. But, before the union, any person, or persons, or any class of persons, might at any time, have established and maintained schools, denominational or non-denominational, which would have entered into competition with the Roman catholic schools, and if possessed of the means might have endowed and maintained the schools so begun as free schools. The Roman catholics had no such right or privilege, as to schools, as would have given them the right to prohibit the establishment and maintenance of such schools. If the argument that, by taxation under the public schools act, the ability of the Roman catholics to maintain their own denominational schools is lessened, and so they are prejudicially affected, is used, the same argument may be urged in connection with all taxation for provincial and municipal purposes. By the British North America act the province has the power of taxation for provincial purposes. At the time of the union no taxes of any kind were imposed, the only public revenue of any kind then collected was the customs duty, usually four per cent. All provincial legislation under which taxes are imposed for provincial or municipal purposes, for making and repairing roads and bridges, or any improvements, is equally open to the objection that by reason of it the ability of Roman catholics to maintain their schools has been lessened. Such taxes are all burdens to which they, in common with the other people of the province, were not subject at the time of the union, but to which they, in common with all other ratepayers, are subjected now. This objection, as indeed all the objections urged in favour of the applicant, seems based on the assumption that the schools under the public schools act, are denominational schools. Now, they are nothing of the kind, they are in the strictest sense public non-sectarian schools. The act provides in the 8th section that they shall be entirely non-sectarian, and no religious exercises shall be allowed in them, except as provided in the 6th and 7th sections. By the 7th section religious exercises shall be held in a public school entirely at the option of the school trustees for the district, and upon receiving written authority from the trustees it is to be the duty of the teacher to hold such exercises. The religious exercises permitted in any public school are, by section 6, to be conducted according to the regulations of the advisory board. The time for them is to be just before the closing hour in the afternoon, and to guard against any possible ground of complaint, it is provided in explicit terms, that, "In case the parent or guardian of any pupil notifies the teacher that he does not wish such pupil to attend such religious exercises, then such pupil shall be dismissed before such religious exercises take place." That the advisory board will act according to the provisions of the act and see to it that any religious exercises prescribed are strictly non-sectarian must be presumed. If it should, in this matter, fail in its duty, its transgression might be cause of complaint, but its acting directly contrary to the plain provisions of the act could never be used as an argument against the act itself. Such non-sectarian religious exercises, or the total absence of all such exercises, can never make the schools denominational in their character.

In New Brunswick, at the time of confederation, there was no system of separate schools established by law. But the parish schools act then in force declared that the board of education should secure to all children whose parents did not object, the reading of the bible in the schools, and that when read by Roman catholic children, it should, if required by their parents, be in the Douay version, without note or comment. By that enactment there was secured what many consider a great right and privilege, and Roman catholics had secured to them the right, if they required it, that when the bible was read by their children it should be in a particular version. The common schools

act, passed after confederation, had no provision on the subject. Then the board of education made a regulation, that, "It shall be the privilege of every teacher to open and close the daily exercises of the school by reading a portion of Scripture (out of the common or Douay version as he may prefer) and by offering the Lord's prayer—any other prayer may be used by permission of the board of trustees, but no teacher may compel any pupil to be present at those exercises against the wishes of his parents of guardian, expressed in writing to the board of trustees." This was a great change from the provision in the parish schools act, for the right Roman catholics had under it, that a particular version of the bible should be read by their children, if they so desired, was taken away, and the reading of that version or not, made optional with the teacher. It was urged in *Re Renaud*, 1 Pugs., N.B.R. 273, that on this as well as the other grounds, the common school act was *ultra vires*, but the court held it was not so. If it was a right or privilege that existed at the union, certainly the legislature had not protected it by any express enactment, but had it been taken away? If it was a right or privilege, then it would be the duty of the board of education instead of making the regulation they had made, to make one securing just what had been provided for by the parish schools act. The court held that if this was a right or privilege in respect of denominational schools within the protection of sub-section 1 of section 93, of the British North America act, though not protected by the common schools act, it was not taken away, so it could not be said that the right was prejudicially affected.

In this province, at the time of the union, Roman catholics had the right to establish and maintain denominational schools in which the distinctive doctrines and principles of the Roman catholic church were taught. To these schools they had the right to send their children.

As incident to the existence of these denominational schools, they were in the matter of education separate from the rest of the community. They maintained these schools at their own expense. Parents who sent children to them paid fees. But no Roman catholic, as no other person in the province, could be compelled to contribute to the support of denominational schools.

Which of these possible rights or privileges has been interfered with, or affected, by the public schools act? It does not enact that there shall be no schools in the province, except those under the act, nor does it provide that the distinctive doctrines and principles of the Roman catholic church shall not be taught in any schools in this province. The Roman catholics may carry on schools since the passing of the act, just as they did at the time of the union. The act does not say that no school fees shall be paid or collected in schools, other than those under this act. The Roman catholics can, just as they did at the union, collect fees from parents sending children to their schools, and maintain their schools in any way they please. There is no provision in the public schools act by which any man in the province, Roman catholic or protestant, can be compelled to support denominational schools.

The only change in the situation is, that while at the union no one could be compelled to contribute for the support of schools—not for the support of public non-sectarian schools, for there were none in existence, nor for the denominational which did exist, for there was no law requiring them to be supported. Now, all the property owners in the province, protestants and Roman catholics alike, are compelled to contribute for the support of the public non-sectarian schools.

It is surely a matter of importance for every state that its citizens should be intelligent and educated. Is it not the duty of every state to see there is brought within the reach of all the children in it, the means of acquiring at least an elementary education, such an education as will fit them, when they grow up, to exercise intelligently the duties of citizenship. If it is the duty of the state to do this, and I do not see how it can be doubted, then it is the duty of the state to provide the funds necessary for the purpose. Providing these funds must be a provincial purpose, for which it is, by sub-section 2 of section 92 of the British North America act, in the power of a province to impose taxation within the province. That providing for the education of the people is a provincial duty is also plainly shown by the provision, both in the British North

America act, and in the Manitoba act, that it shall be exclusively within the jurisdiction of the province to make laws on the subject of education. The only limitation on their powers is, that existing rights or privileges by law or practice as to denominational schools shall not be prejudicially affected.

Speaking of the provisions of section 93 of the British North America act, in his report on The New Brunswick common schools act, dated 20th January, 1872, Sir John A. Macdonald, then minister of justice, expressed it as his opinion, that they applied exclusively to the denominational separate or dissentient schools, and did not in any way affect or lessen the powers of provincial legislatures to pass laws respecting the general educational system of the province. The 22nd section of the Manitoba act must receive the same construction. The public schools act, the validity of which is impeached, is an act dealing with the general educational system of this province.

It does not deal with denominational, separate or dissentient schools. Its object is to provide for the general education of the people, to provide public, non-sectarian schools, open to all the people of the province who choose to take advantage of them for the education of their children. I cannot see that any rights or privileges that roman catholics enjoyed at the time of the union as to denominational schools are dealt with or in any way prejudicially affected by the act.

It must, in my opinion, be held that the appeal fails, and that it should be dismissed with costs.

DUBUC, J.

This matter comes before the court by way of motion to reverse the order or decision of my brother Killam, dismissing the summons taken out to quash by-laws nos. 480 and 483, of the city of Winnipeg.

These by-laws were passed by the city council, to levy for municipal and school purposes, a rate of two cents on the dollar, on all rateable property in the said city, being 15½ mills on the dollar for general municipal purposes, and 4½ mills on the dollar for school purposes.

The applicant, John Kelley Barrett, asks in his summons to have the said by-laws quashed for illegality, upon the following among other grounds: "Because by the said by-laws the amounts to be levied for school purposes for the protestant and catholic schools are united, and one rate levied upon protestants and Roman catholics alike for the whole sum."

The by-laws in question were made in compliance with the provisions of the act respecting public schools, passed at the last session of the provincial legislature, 53 Vic., c. 38, and under the provisions of the municipal act.

The said applicant states in his affidavit that the effect of the said by-laws is that one rate is levied upon all protestant and Roman catholic ratepayers in order to raise the amount required for school purposes, and the result to individual ratepayers is, that each protestant will have to pay less than if he were assessed for protestant schools alone, and each Roman catholic will have to pay more than if he were assessed for Roman catholic schools alone.

This involves the constitutional question, whether the said act respecting public schools is, or is not, *intra vires* of the provincial legislature.

To determine that serious question, it is important to consider what schools were in existence in this country when this province was admitted into the Canadian confederation, and what provisions were made at the time of the union in regard to the matter. It may also be proper to give a brief outline of the laws which, under the provisions of the constitutional acts were enacted by the legislature, were put in operation, and were in force in this province until repealed and replaced by the statute respecting public schools of last session, and to examine the features of the said last mentioned statute.

As stated in the affidavit of his grace the archbishop of St. Boniface, filed on behalf of the applicant, and not denied by the other side, the following state of facts is shown: "2, prior to the passage of the act of the dominion of Canada, passed in the 33rd year of the reign of her majesty Queen Victoria, c. 3, known as the Manitoba act, and

prior to the order-in-council issued in pursuance thereof, there existed in the territory, now constituting the province of Manitoba, a number of effective schools for children; 3, these schools were denominational schools, some of them being regulated and controlled by the Roman catholic church, and others by various protestant denominations; 4, The means necessary for the support of Roman catholic schools were supplied, to some extent, by school fees paid by some of the parents of the children who attended the schools, and the rest were paid out of the funds of the church, contributed by its members; 5, During the period referred to, Roman catholics had no interest in, or control over, the schools of the protestant denominations, and the members of the protestant denominations had no interest in, or control over, the schools of the Roman catholics. There were no public schools in the sense of state schools. The members of the Roman catholic church supported the schools of their own church, for the benefit of the Roman catholic children, and were not under obligation to, and did not contribute to the support of any other schools. In the matter of education, therefore, during the period referred to, Roman catholics were, as a matter of custom and practice, separate from the rest of the community, and their schools were all conducted according to the distinctive views and beliefs of Roman catholics as herein set forth."

In the following paragraph of his said affidavit, his grace states that the church regards the schools provided for by the public schools act, as unfit for the purpose of educating their children, and the children of Roman catholic parents will not attend such schools; that rather than countenance such schools, Roman catholics will revert to the system in operation previous to the Manitoba act, and will establish, support and maintain schools in accordance with their principles and faith; that protestants are satisfied with the system of education provided for by the said public schools act, and are perfectly willing to send their children to the schools established and provided for by the said act, such schools are, in fact, similar in all respects to the schools maintained by the protestants under the legislation in force immediately prior to the passage of the said act, etc., etc.

The affidavits filed in opposition to the motion state that schools which existed prior to the province of Manitoba entering confederation were purely private schools, and were not in any way subject to public control, nor did they in any way receive public support. No school taxes were collected by any authority, and there were no means by which any persons could be forced by law to support any of the said private schools.

As stated by my brother Killam, these affidavits are in no way contradictory to or inconsistent with the statements made by his grace.

In his affidavit, also filed herein, Reverend Professor Bryce gives his views as to what were the opinions of the presbyterians of this province in the years immediately succeeding the entrance of Manitoba into confederation; but as he only came into this country in 1871, one year after, he does not pretend to contradict any of the statements made by the archbishop of St. Boniface on what was the position of affairs in regard to the denominational schools, either Roman catholic or protestant then existing.

So it remains established that the schools then in operation, although there was no law to give them legal sanction, were *de facto*, i. e., in practice, denominational schools.

The provisions of law in regard to schools, made applicable to Manitoba at the union, were the 93rd section of the British North America act, and the 22nd section of the Manitoba act.

Under the said provisions of our constitution, the provincial legislature, at its first session, in 1871, passed an "act to establish a system of education in this province." By the said act, the lieutenant-governor-in-council was empowered to appoint not less than ten, nor more than fourteen persons, to be a board of education for the province, of whom one-half were to be protestants, and the other half catholics; also one superintendent of protestant schools and one superintendent of catholic schools, who were joint secretaries of the board.

The duties of the board were described as follows: "1st. To make from time to time such regulations as they may think fit for the general organization of the common schools; 2nd. To select books, maps, and globes to be used in the common schools, due

regard being had in such selection to the choice of English books, maps and globes for the English schools, and French for the French schools, but the authority hereby given is not to extend to the selection of books having reference to religion or morals, the selection of such being regulated by a subsequent clause of this act ; 3rd. To alter and sub-divide, with the sanction of the lieutenant-governor-in-council, any school district established by this act."

The general board was divided into two sections, and among the duties of each section, we find the following : "Each section shall have under its control and management the discipline of the schools of the section ; it shall make rules and regulations for the examination, grading and licensing of teachers, and for the withdrawal of licenses on sufficient cause ; it shall prescribe such of the books to be used in the schools of the section as have reference to religion or morals."

By section 13, the monies appropriated to education by the legislature were to be divided equally, one moiety thereof to the support of protestant schools, the other moiety to the support of catholic schools.

The first board appointed by the lieutenant-governor-in-council, was composed of the bishop of St. Boniface, the bishop of Rupert's Land, several catholic priests, several protestant clergymen of various denominations, and a couple of laymen for each section.

The said statute was amended from time to time, as the country was becoming more settled, and new exigencies arose. But the same system prevailed until the act of last session ; the only substantial amendments were that, in 1875, the board was increased to twenty-one, twelve protestants and nine Roman catholics, and the monies voted by the legislature were to be divided between protestants and catholics in proportion to the number of children of school age in the respective protestant and catholic districts.

The more noticeable change in the system was that the denominational distinction between the catholics and protestants, and the independent working of the two sections, became more and more pronounced under the different statutes afterwards passed. Section 27, of the act of 1875, c. 27, says, that the establishment of a school district of one denomination shall not prevent the establishment of a school district of the other denomination in the same place.

The same principle is carried out and somewhat extended by sections 39, 40, and 41, of the act of 1876, c. 1.

In 1877, by c. 12, s. 10, it was enacted that in "no case a protestant ratepayer shall be obliged to pay for a catholic school, and a catholic ratepayer for a protestant school."

So it is manifest that, until the act of last session, the school system created by the provincial legislature, under the provisions of the constitutional act, was entirely based and carried on, on the denomination principle, as divided between protestant and Roman catholic schools.

At the last session of the legislature, two acts were passed in respect of education. The first one, c. 37, abolishes the board of education heretofore existing, and the office of superintendent of education, and creates a department of education which is to consist of the executive council or a committee thereof, appointed by the lieutenant-governor-in-council, and also an advisory board composed of seven members, four of whom are to be appointed by the department of education, two by the teachers of the province, and one by the university council. Among the duties of the advisory board is the power "To examine and authorize text books and books of reference for the use of the pupils and school libraries ; to determine the qualification of teachers and inspectors for high and public schools ; to appoint examiners for the purpose of preparing examination papers ; to prescribe the form of religious exercises to be used in schools."

The next act is, the public schools act, c. 38. It repeals all former statutes relating to education. It enacts, amongst other things, as follows : section 3, "All protestant and catholic school districts, together with all elections and appointments to office, all agreements, contracts, assessments and rate bills heretofore duly made in relation to protestant or catholic schools, and existing when this act comes into force,

shall be subject to the provisions of this act." Section 4, "The term for which each school trustee holds office at the time this act takes effect shall continue as if such term had been created by virtue of an election under this act." Section 5, "All public schools shall be free schools, and every person in rural municipalities between the age of five and sixteen years, and in cities, towns and villages, between the age of six and sixteen, shall have the right to attend some school." Section 6, "Religious exercises in public schools shall be conducted according to the regulations of the advisory board. The time for such religious exercises shall be just before the closing hour in the afternoon. In case the parent or guardian of any pupil notifies the teacher that he does not wish such pupil to attend such religious exercises, then such pupil shall be dismissed before such religious exercises take place." Section 7, "Religious exercises shall be held in a public school entirely at the option of the school trustees for the district, and upon receiving written authority from the trustees, it shall be the duty of the teacher to hold such religious exercises." Section 8, "The public schools shall be entirely non-sectarian, and no religious exercises shall be allowed therein except as above provided."

It provides for the formation, alteration, and union of school districts in rural municipalities, and in cities, towns or villages, the election of school trustees, and for levying a rate on the taxable property in each school district for school purposes.

Section 92 enacts that "the municipal council of every city, town and village shall levy and collect upon the taxable property within the municipality in the manner provided in this Act and in the municipal and assessment acts, such sum as may be required by the public school trustees for school purposes."

Section 108, which provides for the legislative grant to schools, has the following sub-section, "(3) Any school not conducted according to all the provisions of this, or any act in force for the time being, or the regulations of the department of education, or the advisory board, shall not be deemed a public school within the meaning of the law, and shall not participate in the legislative grant." By section 143, "No teacher shall use or permit to be used as text books, any books in a model or public school, except such as are authorized by the advisory board, and no portion of the legislative grant shall be paid to any school in which unauthorized books are used." By section 179, "In cases where, before the coming into force of this act, catholic school districts have been established as in the next preceding section mentioned (*that is, covering the same territory as any protestant district*), such catholic school district shall, upon the coming into force of this act, cease to exist, and all the assets of such catholic school district shall belong to, and all the liabilities thereof be paid by the public school district."

It is easy to see from the above that the new act makes a complete change in the system. The denominational division of catholics and protestants is entirely done away with, and by section 179, where, as in this case, a catholic school district is supposed to cover the same territory as any protestant school district, the said catholic school district is not only wiped out, but its property and assets are vested in, and belong to the other school district, which under the act becomes the public school district.

Let us see now what are the provisions of the British North America act and of the Manitoba act applying to the case. Section 93 of the British North America act enacts, that, "In and for each province the legislature may exclusively make laws in relation to education, subject and according to the following provisions: (1) Nothing in any such law shall prejudicially affect any right or privilege with respect to denominational schools which any class of persons have by law in the province at the union."

The first sub-section of section 22, of the Manitoba act, is substantially the same, the only difference being in the addition of the words, "or practice" which makes it read thus: (1) "Nothing in any such law shall prejudicially affect any right or privilege with respect to denominational schools which any class of persons have by law or practice in the province at the union."

The whole question to be determined in this case turns upon the construction of the words "or practice" added to the provision of the Manitoba act.

The rules of construction of statutes as laid down by the authorities, are well known. Though all based on the strict principles of justice, they, in their application

offer some distinction and some apparent differences, in order to meet the numerous exigencies of the various cases under consideration. One rule, perfectly sound as applicable to a particular case, under a particular set of circumstances, might be unjust and unfair if applied to another case with different circumstances. Per Lord Blackburn in *Edinburg Street Tramways Co. v. Torbain*, 3 App. Cas. 68.

One of the first elementary rules is, that when the words of the statute admit of but one meaning, a court is not at liberty to speculate on the intention of the legislature as to construe an act according to its own notions of what ought to have been enacted. *Maxwell on Statutes*, 6; *R. v. York and North Midland Railway Co.*, 1 E. & B. 858.

When the language is precise and unambiguous, but at the same time incapable of reasonable meaning, and the act is consequently inoperative, a court is not at liberty to give the words, on mere conjectural grounds, a meaning which does not belong to them. *Maxwell on Statutes*, 23.

But the above rule is confined to cases where the language is precise and capable of but one construction.

If the words, "or practice," inserted in the Manitoba act, were as clear and unambiguous as to admit of but one construction, the above rule would have to be applied, and there would be no use for prosecuting the enquiry any further. But such is not the case. They are said to mean that the roman catholics, while compelled to contribute to the support of public schools, are by said words, allowed to have and maintain their denominational schools as private schools; this is the narrower construction. They are also alleged to secure to catholics the privilege of being exempted from compulsory attendance at the public schools; another and more liberal construction is that the denominational schools, existing as a matter of fact at the time of the union, were given by these words, a legal status, so that they could not afterwards be interfered with by the provincial legislature.

As seen by these different interpretations, the words "or practice" are susceptible of more than one construction; another rule then has to be applied.

An old rule of construction says that a thing which is within the letter of the statute is not within the statute, unless it be also within the meaning of the legislature. *Maxwell*, 24; *Bacon's Abrid. Statute*, (1), 5.

As stated by *Maxwell* at p. 27, "to arrive at the real meaning, it is always necessary to take a broad general view of the act, so as to get an exact conception of its aim, scope and object. It is necessary, according to Lord Coke, to consider: 1. What was the law before the act was passed; 2. What was the mischief or defect for which the law had not provided; 3. What remedy parliament has appointed; and 4. The reason of the remedy." That rule was laid down in *Heydon's Case*, 3 rep. 7, decided as late back as during the reign of Elizabeth, and has been followed ever since.

In order to find out the exact and true meaning of certain words contained in a statute, it becomes sometimes important to go into the history of the matter and examine the external circumstances which led to the enactment in question.

In *River Wear Commissioners v. Adamson*, 2 app. cas., Lord Blackburn says at p. 756: "I shall state as precisely as I can what I understand from the decided cases, to be the principles on which the courts of law act in construing instruments in writing, and a statute is an instrument in writing. In all cases the object is to see what is the intention expressed by the words used. But from the interpretation of language, it is impossible to know what that intention is without inquiring farther, and seeing what the circumstances were with reference to which the words were used, and what was the object appearing from the circumstances, which the person using them had in view, for the meaning of words varies according to the circumstances with respect to which they were used."

"In the interpretation of statutes," says *Maxwell*, at p. 30, citing *Graham v. Bishop of Exeter*, rep. by Moore 462, "the interpreter, in order to understand the subject matter, and the scope and object of the enactment, must, in Coke's words, ascertain what was the mischief or defect for which the law had not provided, that is, he must call to his aid all those external or historical facts which are necessary for this purpose, and which

led to the enactment, and for these he may consult contemporary or other authentic works and writings."

In *Attorney-General v. Sillem*, 2 H. & C., Lord Bramwell expressed the same view when he said at p. 529: "It may be a legitimate mode of determining the meaning of a doubtful document to place those who have to expound it in the situation of those who made it, and so, perhaps history may be referred to to show what facts existed bringing about a statute, and what matters influenced men's minds when it was made."

Similar language was used by L. J. Turner in *Hawkins v. Gathercole*, 6 De G., M. & G. 1. He says at p p. 20 and 21: In construing acts of parliament, the words which are used are not alone to be regarded. Regard must also be had to the intent and meaning of the legislature. The rule upon the subject is well expressed in the case of *Stradling v. Morgan: Plowd*, 204; and also in *Eyston v. Studd: Plowd*, 467:—" In determining the question before us, we have, therefore, to consider not merely the words of the act of parliament, but the intent of the legislature to be collected from the cause and necessity of the act being made from a comparison of its several parts, and from foreign (meaning extraneous) circumstances, so far as they can justly be considered to throw light upon the subject."

In *Holme v. Guy*, 5 Ch. D. 905, Jessel, M.R., said: "The court is not oblivious of the history of law and legislation. Although the court is not at liberty to construe an act of parliament by the motives which influenced the legislature, yet, when the history of law and legislation tells the court what the object of the legislature was, the court is to see whether the terms of the section are such as fairly to carry out that object and no other, and to read the section with a view to finding out what it means, and not with a view of extending it to something that was not intended."

In the light of those authorities, it becomes necessary in trying to determine the true meaning of the words "or practice," in the Manitoba act, to examine under what circumstances these words were introduced into the statute, and the grounds, if they can be ascertained, on which they were inserted.

The 93rd section of the British North America act gives to the legislature of each province the exclusive power to make laws in relation to education, subject however, to certain restrictions, the first of which says that nothing in any such law shall prejudicially affect any right or privilege which any class of persons have by law, etc. The first sub-section of the 22nd section of the Manitoba act says: ". . . . which any class of persons have by law or practice," etc.

Why were these words "or practice" introduced? What was intended by said words? The true meaning intended by the legislature can only be ascertained by examining the historical facts and circumstances connected with the school question, which led to the provisions of the 93rd section of the British North America act, and the 22nd section of the Manitoba act being enacted.

When the four provinces of Ontario, Quebec, Nova Scotia and New Brunswick joined in the confederation scheme, each of these provinces was already fully organized and had a system of public schools, established by law. In Ontario and Quebec, the law authorized dissentient or separate schools of a denominational character, in localities where the minority had a religious belief different from the creed of the majority. The minorities, in establishing separate or dissentient schools, were exempt from taxation for the support of public schools, and were allowed a proportionate share of the legislative grant. The systems in Ontario and in Quebec were not exactly the same, but they had some common features embodying the principle of denominational schools.

In Upper Canada the question of separate schools had been the subject of a long and bitter struggle between protestants and catholics, but the matter had been finally settled by the school act of 1863.

In Nova Scotia and New Brunswick, it appears that the Roman catholic minorities had in practice their own schools under the common or parish school laws: but the said schools were not recognized by law as such denominational schools, and the catholics had no right or privilege by law in respect of denominational schools.

In framing the British North America act, the fathers of confederation, in order to guard the populations of the different provinces against the agitation and turmoil

which had been raised on that question between catholics and protestants in the old province of Canada, while conceding and asserting the principle that each of the provinces might exclusively make laws in relation to education, thought proper to protect the religious feelings, and secure the right and privilege of the minorities on that subject, by enacting the limitations found in the sub-sections of the 93rd section. These limitations were to apply to new provinces entering confederation as well as to the four original provinces.

The extent of the limitations imposed on provincial legislatures by the said provisions, was first raised and questioned in New Brunswick. The law relating to the subject, at the time of the union, was the parish schools act of 1858. In 1871, the legislature of New Brunswick passed an act relating to common schools, to which the Roman catholics of the province had very strong objections. Petitions were sent to the provincial legislature, and afterwards to the dominion authorities, against the coming into effect of the act. The matter was taken before the Supreme Court of New Brunswick, in *ex-parte Renaud*, reported in 2 *Cartur. cas.*, 465, and an elaborate judgment was pronounced in the case by the court. The court decided in effect, that the catholics of New Brunswick had not *by law* at the union, any right or privilege in respect to denominational or separate schools. In dealing with the question, the court insists on the fact that the catholics had no rights or privileges by law, which were the only rights or privileges contemplated and secured by the first sub-section of the 93rd section of the act. The expression "legal right or privilege" is almost constantly used. In the course of the judgment, Chief Justice Ritchie, now chief justice of the supreme court of Canada, speaking for the majority of the court, said: "Where is there any thing that can, with propriety, be termed a legal right? Surely the legislature must have intended to deal with legal rights and privileges. How is it to be defined? How enforced?" And elsewhere: "If the Roman catholics had no legal rights, as a class, to claim any control over, or to insist that the doctrines of their church should be taught in all or any schools under the parish schools act, how can it be said (though as a matter of fact such doctrines may have been taught in numbers of such schools) that, as a class of persons they have been prejudicially affected in any legal right or privilege with respect to 'denominational schools' construing those words in their ordinary meaning, because under the common schools act, 1871, it is provided that the schools shall be non-sectarian?"

From the above quotations, where *legal* rights only are considered and dealt with, and from the other arguments advanced and expressions used, it may fairly be inferred that, if the Roman catholics of New Brunswick, instead of having only their right and privilege *by law* secured by the statute, they had had their right and privilege *by practice* equally secured, the judgment of the court might have been different.

As to the point raised on the argument by Mr. Ewart, of counsel for the applicant, that the words "or practice" were likely inserted in the Manitoba act to remedy the defect which caused the difficulties in New Brunswick, which point was answered by the attorney-general, that such could not be the case, because the New Brunswick common schools act was passed only in 1871, one year after the Manitoba act, this, at least, may be said: it appears from the journals of the legislative assembly of New Brunswick that the bill relating to common schools was introduced and put through the house of assembly by the Hon. Geo. A. King, attorney-general of the province, in 1871; that the same Hon. Geo. A. King had, in 1869, introduced in the legislative assembly a similar bill, which had been read a first time; that the same Hon. Geo. A. King, did, on the 24th of February, 1870, introduce a similar bill which was read a first and second time, referred to the committee of the whole, and considered and discussed in four distinct sittings of the said committee of the whole, on the 17th March, 22nd March, 31st March, and 1st April. That bill provided that it was not to come into operation for one year after the passage thereof.

The Manitoba act passed by the dominion parliament, did not become law until the 12th of May of the same year. It was not introduced into the house until the second day of May, more than a month after the discussion in the legislature of New

Brunswick of the common schools bill in question. Is it not therefore reasonable to infer and presume that the discussion which took place in the legislative assembly of New Brunswick at the different sittings held on said school bill in question were, as usual, reported and criticized in the public press, and that such reports and criticisms came to the knowledge of members of the dominion government and other persons who had something to do with the framing of the Manitoba act? This most natural inference becomes, under the circumstances, such a presumption as not to be neglected in the construction of the words in question. Presumptions are constantly used in determining the real intent and meaning of statutes.

We have the fact that, when the Manitoba act was passed, there were denominational schools in this country, and the further fact that there was no law to protect in their privilege the minorities of the future, either catholic or protestant, who might wish the continuance of said denominational schools. These facts, we must assume, were well known to the legislators. If the province had entered confederation with no other protection to minorities, with respect to denominational schools, than the first sub-section of the 93rd section of The British North America act, as there was no law in the country with respect to denominational schools, or even to any kind of schools, the first sub-section of the 93rd section, or its re-enactment without modification in the Manitoba act, would have remained a dead letter. As there was no law, there was no right or privilege by law to be protected. The Roman catholics of this province were even in a worse position than those of New Brunswick, because there, as seen by the judgment of the supreme court of that province already referred to, the catholics had, under the parish schools act of 1858, numbers of schools in which, as a matter of fact, the doctrines of their church were taught, though the parish schools act did not confer on them, as a class, any right or privilege with respect to denominational schools. This position of affairs must have impressed the men who framed the Manitoba act, and shows conclusively to my mind that the words, "or practice," were inserted in the Manitoba act for only one and very manifest purpose, that is, to protect in their right and privilege, as to denominational schools, the catholics or protestants who might in the future find themselves in the minority in this province.

We must not overlook the fact that it was considered, and well known at the time, that the protestants and catholics were in about equal numbers in the province. That proposition is sufficiently established by the fact that the first school act passed by the Manitoba legislature in 1871 provided that an equal number of protestants and catholics were to be appointed as members of the board of education, and that the monies voted by the legislature should be equally divided, one half to be appropriated for the support of protestant schools, and the other half for the support of catholic schools.

Another fact not to be left unnoticed is that Manitoba was the only province entering confederation after the original union for which the provisions of the 93rd section of the British North America act were departed from and modified. Nothing of the kind is found in the terms made with British Columbia and Prince Edward Island when they entered confederation in 1871 and 1873. Why was that departure from the provisions of the British North America act made in regard to denominational schools for Manitoba only? Undoubtedly because it was well known that the population of this province was equally divided between the protestants and Roman catholics, and that there was already by practice, in the country, denominational schools, which the legislature intended to protect and insure permanently to any class of persons, either protestants or catholics, who might desire to continue in the enjoyment of that privilege. That accounts for the insertion of the two words "or practice" in the Manitoba act.

Before examining more fully what is the true and real purport of the words "or practice," as applying to the right and privilege in question, it may be convenient to consider what is a right and what is a privilege. A right is a just claim; a legal title; something positive, which can be enforced by law. A privilege is sometimes also a direct advantage or benefit; but it is often considered more as of a negative character,

such as an immunity, an exemption from some burden, beyond the common advantage of other individuals. So, the words "right" and "privilege" are technical words, having by themselves well defined legal meanings.

The same cannot be said of the word "practice," in the sense in which it is used in this sub-section. It is not a technical legal word, and it has no particular legal meaning. It is not found in any such sense in law dictionaries. It is only an ordinary popular word to be construed in its ordinary popular sense. It means custom or habit, use or usage. In the sub-section in question, it qualifies the words "right" and "privilege." "Privilege by law" may be considered a technical expression, to be construed according to its technical meaning. But "privilege by practice" becomes an ordinary popular expression to be interpreted in its popular sense.

"The words of a statute," says *Maxwell*, at p. 67, "are to be understood in the sense in which they best harmonize with the subject of the enactment and the object in view."

In *Jessen v. Wright*, 2 Blyth., Lord Redesdale says at p. 56, "That the general intent shall overrule the particular is not the most accurate expression of the principle of decisions. The rule is that technical words shall have their legal effect, unless from other words it is very clear that the testator meant otherwise." The above was quoted approvingly by Lord Wensleydale in *Roddy v. Fitzgerald*, 8 H. L. 877.

In *The Fusilier*, 34 L. J. P. M. & A. 27, the words "persons belonging to the ship," in the merchant shipping act, 1854, were, in matter of reward for salvage, construed to apply to passengers as well as to the crew. "As to the words, 'belonging to such ship,'" says Dr. Lushington, "'belonging' is certainly a word *incipitibus usus* with reference to the subject matter; but one of the rules of construing statutes, and a wise rule too, is that they shall be construed *uti loquitur vulgus*, that is, according to the common understanding and acceptation of the terms, and I think that nothing is more common than to say of passengers by a ship that they are persons belonging to the ship, and would be included under the expression "persons."

In this case, the expression "privilege by practice" must be construed in its popular sense, having always in sight the object which the legislature had in view when they were dealing with limitations to the power of the provincial legislature in regard to schools, and when they knew that certain classes of persons had by practice, i. e., by custom and usage, denominational schools which were sought to be protected. That construction "harmonizes best with the object which the legislature had in view."

The mere change of a word in a similar statute for another word of the same purport, or the addition of one or more words of the same purport as the word already used, does not always show an intention of the legislature to have it operate as a change or alteration of the meaning. But it is not so here. The words, "by law," and "by practice," cannot be considered as of the same purport. The addition of the words "or practice," show clearly an intention of the legislature to give an entirely new meaning to the provision, and to add something to the limitation already imposed on the provincial legislature, in order to make it apply to, and provide for, the case under consideration. What is then the true meaning intended by the legislature in inserting those words?

It is contended that very little importance should be attached to the words. It cannot, however, be supposed that they were placed there fortuitously, unmeaningly, on the speculative chance that they might fit some hypothetical unknown state of things. The position of denominational schools then existing by practice, was known by the framers of the act through the delegates sent from this country to negotiate and arrange with the dominion authorities the terms on which the new province would enter confederation. In the course of those negotiations, the provisions respecting schools, to be inserted in the act, must have been fully discussed. Those words were therefore inserted advisedly to secure to those interested the permanency of denominational schools enjoyed at the time by practice, but not recognized by law. This must have been the privilege by practice meant by the provision.

The adverse contention is, that the only privilege enjoyed by Roman catholics before the union, and secured by the words, "by practice," was the privilege of having

denominational schools sustained by themselves as private schools, and that, under the new school law, they may have the same privilege still. The privilege of being taxed for the support of schools from which according to their conscience and to the principles of their faith, they could derive no benefit, and of taxing themselves besides for the only schools to which they could conscientiously send their children, would be a very strange privilege indeed. Let us see whether such could have been the intention of the legislature in adding the words "or practice" in the Manitoba act.

Strictly speaking, the legislature has, within the scope of its jurisdiction, the unlimited power to make any, even unjust or absurd, enactments. But, at the same time, it is never contemplated that in civilized modern countries a legislature would disregard and set at naught the well known principles of natural justice and equity. The right of any persons or class of persons to have and support private schools is a primordial right, as the right to breath air or eat bread. Supposing the legislature of a province, having full power to do so, would pass a public school act with compulsory attendance, which all ratepayers would be bound to support, that would not affect the natural right of a citizen to teach his own children in his own house, before school time in the morning, between school hours in the middle of the day, or after the closing of the public school in the afternoon, and so to have and conduct a private school in his own premises. Nothing even would prevent him from having his neighbour's children attending such teaching, or having such teaching done by his daughter, or any other person. This would be a private school which no one would by law be bound to support, a school of the same nature as those stated to exist before the union. Such a natural right does not want any legislation to protect it. Can we, therefore, suppose that the only thing which was aimed at and intended by the dominion parliament in adding the words "by practice" was to protect and insure to the minority of the future the natural right to have such schools? Can we, reasonably, assume that the federal parliament, anticipating and fearing that the Manitoba legislature might, against all natural justice and fairness, deprive a whole class of persons of such primordial right, inserted the words "or practice" for the only purpose of guarding and protecting the minority that might be, against such unjust and oppressive legislation? That surely could not have been anticipated, and the enactment could not have been intended to prevent such imaginary mischief.

In *R. v. Skeen* case, Bell 115, Lord Campbell said, "When by the use of clear and unequivocal language, capable only of one construction, anything is enacted by the legislature, we must enforce it, although in our opinion it may be absurd or mischievous. But if the language employed admit of two constructions, and according to one of them the enactment would be absurd or mischievous, and according to the other it would be reasonable and wholesome, we surely ought to put the latter construction upon it as that which the legislature intended." A similar view was expressed by Parke, B., in *Beck v. Smith*, 1 M. & W., 195, where he held that, when the grammatical construction of the words used would lead to any manifest absurdity or inconvenience, the language may be varied or modified so as to avoid such inconvenience.

But, as it may be further objected on this point, as the legislature has the power to pass statutes to establish a state church, to prescribe an oath of supremacy objectionable to Roman catholics, to disfranchise or create other disabilities affecting them, why was there no provision made to protect them against such contingencies? The reason is obvious: because it was confidently and rightly understood and taken for granted that the people on whom a constitution based on the representative system, was being conferred, were civilized and reasonable enough not to wantonly depart, on these questions, from the broad and equitable principles prevailing in modern British and other civilized constitutional institutions. A constitution assumes a certain number of general principles, and is not supposed to provide for every minor detail of having its provisions carried out. As to schools, however, the question had very properly to be looked upon in a different light. The experience of the past had taught a profitable lesson: the difficulties and controversies which had arisen before on that question in Ontario, Quebec, and other centres of mixed population, the strong prejudices by which certain persons and

certain classes were liable to be carried on that point, engendering the most bitter feelings in communities otherwise living harmoniously together, must have shown to the legislators that this was a live and burning question to be settled and provided for, and influenced them to protect the new province against the trouble and agitation experienced over it elsewhere.

If, as I have stated, by being narrowly construed to protect only private schools which need no protection, the words "or practice" would be a superfluous and meaningless enactment, they must have some other meaning. By carefully considering all the circumstances which led to their being inserted in the Manitoba act, it appears to me most evident that the dominion legislature, knowing that there were effective denominational schools in the country, knowing also that there being no law to authorize them, the right or privilege to have them maintained would not be secured after the union by the provisions of the British North America act, clearly intended to give legal sanction to the privilege enjoyed by practice.

To the contention that the new school law does not interfere with the privilege of any class of persons to have still denominational schools, as private schools, the Roman catholics can justly say: If the new act does not take from us the right of having our schools, it deprives us of the privilege of subscribing exclusively for our own schools. Prior to the union, the Roman catholics had the positive right of having their own denominational schools; they had, besides the negative right, that is, the privilege of not being compelled to support other schools. They had that right and privilege as a matter of fact, and the words "or practice" were inserted to prevent their being interfered with under the new constitution.

Besides considering the historical facts and circumstances bearing upon a statute to ascertain its real sense, another mode of determining its true meaning is to examine its different parts, and even parts of other acts on the same subject. As stated by Lord Mansfield in *R. v. Loxdale*, 1 Burr. p. 447, "when there are different statutes *in pari materia*, though made at different times, or even expired, and not referring to each other, they shall be taken and construed together as one system, and as explanatory of each other."

According to L. J. Turner, in *Hawkins v. Gathercole*, already cited, the court has to consider not only the words of the act of parliament, but the intent of the legislature, to be collected from the cause and necessity of the act being made, from a comparison of its several parts, and from foreign circumstances, so far as they can justly be considered to throw light upon the subject.

So far, I have dealt only with the first sub-section of the 93rd section of the British North America act, and the corresponding sub-section in the Manitoba act.

The 2nd sub-section of the said 93rd section of the British North America act extends to the dissentient schools of the protestants and Roman catholics of Quebec, the powers, privileges and duties conferred and imposed by law at the union on the separate schools and school trustees of the Roman catholics in upper Canada.

By the 3rd sub-section it is enacted that: "Where in any province a system of separate or dissentient schools exists by law at the union, or is thereafter established by the legislature of the province, an appeal shall lie to the governor general in council from any act or decision of any provincial authority affecting any right or privilege of the protestant or catholic minority of the queen's subjects in relation to education."

The 4th sub-section provides for remedial laws to be made by the parliament of Canada for the due execution of the provision of that section and of any decision of the governor-general-in-council, as the circumstances of each case may require, on an appeal being made for that purpose. Of these provisions the first sub-section is reproduced in the Manitoba act with the addition of the words "or practice." Sub-section 2 is omitted. Sub-section 3 is re-enacted in an altered form; the first three lines are omitted, and the appeal is allowed, not only from any act or decision of any provincial authority, but also from any act or decision of the legislature of the province. Sub-section 4 is inserted *verbatim*. Sub-sections 2 and 3 of section 22 of the Manitoba act correspond to sub-sections 3 and 4 of section 93 of the British North America act.

In this case, we have nothing to do with the appeal provided for by the two last mentioned sub-sections. But we are entitled to consider them if they can throw any light on the meaning of the first sub-section.

The first sub-section speaks of any right or privilege with respect to denominational schools; the second subsection gives an appeal from any act or decision of the legislature, or of any provincial authority, affecting any right or privilege of the protestant or Roman catholic minority in relation to education. If the minority, either protestant or catholic, had any right or privilege in relation to education, it must be a right or privilege in regard to their own respective schools, that is, their own denominational schools. Why should there be an appeal to protect their right or privilege, if they had none? The appeal must have been provided because the dominion legislature meant and intended that the denominational schools which protestants as a class, and Roman catholics as a class, had by practice at the union, were to have a legal recognition under the Manitoba act, and, as such were to be protected against any act of the provincial legislature as well as against any act or decision of any provincial authority. The meaning which, I have held, should be given to the words "or practice," is thus explained and confirmed by reference to the other provisions of section 22 of the Manitoba act, and the corresponding provisions of the 93rd section of the British North America act. As already mentioned, there was no reason to re-enact, in the Manitoba act, any of the provisions of the 93rd section in relation to denominational schools, and in relation to appeals by minorities, if there was no such privilege already existing by practice which was intended to be recognized by law under the new constitution.

An objection made against the claim of the applicant is, that if the Roman catholics are entitled to be secured in the continuance of the denominational schools, the other various denominations of protestants would have the same privilege. I do not see that this is an objection at all. The provision speaks of any class of persons having by law or practice any right or privilege with respect to denominational schools. As it is established that the schools existing at the union were denominational schools, respectively controlled by the Roman catholics and by the various protestant denominations, I see no reason to doubt that, if the first sub-section of the 22nd section of the Manitoba act is to be taken alone and independently of the other sub-sections the adherents of the English church, the presbyterians, the episcopalians, and any other denominations of protestants who had by practice denominational schools at the time, would be entitled, under this provision, to keep and maintain them as such. That is one aspect of the question.

The other aspect appears when we look at the other sub-sections in the British North America act, and in the Manitoba act. Christians who, for centuries have been in all christendom divided into two great classes, Roman catholics and protestants, and designated as such, are also in the above-mentioned sub-sections, for the purpose of denominational schools, divided and designated as Roman catholics and protestants. It being an elementary rule that construction of a statute is to be made of all its parts together, and not of one part only, we must look to these different provisions applying to the subject matter, and, in doing so, we are led to the conclusion that the legislature, in speaking of any class of persons in respect of denominational schools, intended to refer to the Roman catholics as a body, and, to protestants as a body, and to apply the protection to either one or the other who might happen to be in the minority.

It is also said that the only privilege secured to the Roman catholics by the words "or practice," is the right to exempt from compulsory attendance at the public schools which might be established. But there was no such thing here at the time as public schools, in the sense of state schools, and no such thing as compulsory attendance. That question of compulsory attendance was not in issue between protestants and catholics, or between particular denominations of protestants. That question could not have been contemplated in the limitation clause of the Manitoba act, as securing the right or privilege of any class or body of christians against the probable tendencies of any other christian body who might thereafter find themselves in the majority. The words, there-

fore, were not inserted to prevent a wrong, or remedy an evil which did not exist, was not foreseen, and was not apprehended, because it was not in issue.

On the argument, it was contended by the attorney general that, if the catholics have by the first sub-section in the Manitoba act, the privilege of being exempt from contributing to the support of any other but their own denominational schools, the provincial legislature would be deprived of the power to pass any effective school law, because the persons who had no children and had not to pay for any schools before the union, would claim that the privilege heretofore enjoyed by them from being taxed to support any schools, would be prejudicially affected. The objection is not a serious one. The law deals with classes, not individuals. The provision was made to protect the rights and privilege which any class of persons had with respect to denominational schools, not the claim or privilege of individuals who happened not to support any school.

It was also urged by the attorney general that, if the dominion parliament had intended to secure to the catholics of the province the right to have their own denominational schools as in Ontario and Quebec, why was not a special provision in regard to it put in the Manitoba act, similar to the 2nd sub-section of the 93rd section of the British North America act. And he argues that the omission shows that there was no such intention. In the first place, that sub-section is a positive provision extending to the dissentient schools in Quebec the powers, privileges and duties which the catholics of Ontario had by law before the union in regard to separate schools. There were no such schools existing by law in this country at the time. In the second place, the question may be satisfactorily answered by its being thus retorted: "If the dominion parliament did not intend to secure to the Roman catholics the right and privilege enjoyed by them at the union with regard to denominational schools, why were the principal provisions of the 93rd section of the British North America act re-enacted in the Manitoba act, and why were such provisions amended by extending further and increasing the limitations already imposed on provincial legislatures? If parliament had no such intention, the British North America act was quite sufficient. There was no necessity and no use for re-enacting its provisions and extending the limitation clause already existing.

Reverting to the interpretation of statutes susceptible of more than one construction, it is an elementary rule that the construction which appears more just and more reasonable will be adopted.

In *Regina v. Monk*, 2 Q.B.D. 555, Brett, L. J., said that "when a statute is capable of two constructions, one of which will work a manifest injustice, and the other will work no injustice, you are to assume that the legislature intended that which would work no injustice." Lord Blackburn expressed the same view in *Rothes v. Kirkcaldy Waterworks Commissioners*, 7 App. Cas. 702, when he said, "I quite agree that no court is entitled to depart from the intention of the legislature as appearing from the words of the act, because it is thought unreasonable, but when two constructions are open, the court may adopt the more reasonable of the two."

In some cases, when the occasion justifies it, the court goes so far as to modify the language of the enactment, or add to it, in order to give it a reasonable construction.

In *Hollingworth v. Palmer*, 4 Ex. 267, Parke, B., after reading section 16 of 7 & 8 Vic., c. 112, which was to be construed, said at p. 281: "This section is certainly most incorrectly worded, and it is, therefore, necessary to modify its language in order to give it a reasonable construction. The rule we have always followed of late years is to construe statutes, like all other written instruments, according to the ordinary grammatical sense of the words used, and if they appear contrary to, or irreconcilable with, the expressed intention of the legislature, or involve any absurdity or any inconsistency in their provisions, they must be modified so as to obviate that inconvenience, and no further."

In *Tennant v. Howatson*, 13 App. Cas. 489, the words, "Nothing contained in this ordinance," were held to mean "Nothing contained in the two preceding sections of this ordinance."

In this case, however, we have not to resort to any such modification of the language of the enactment, nor to any addition thereto. In construing the provision

questioned, which provision is clearly susceptible of more than one construction, it is not difficult to see which construction is more reasonable and more conducive to justice. The Roman catholics had by practice denominational schools before the union; during nineteen years since the union, and until the new school act was passed, they had said denominational schools recognized and authorized by law. They declare, under the oath of the archbishop of St. Boniface, the head of their church in this province, that, on the principle of their religious belief, and on the ground of conscience, they consider the schools provided for by the new schools act, not fit for the purpose of educating their children, and that their said children will not attend said schools, that rather than countenance such schools, they will have to establish, support, and maintain schools in accordance with their principles and faith.

If the narrower construction of the provision in question is adopted, they will have to tax themselves to support their own schools, the only schools which in conscience they can send their children to, and they will have, besides, to be taxed and to pay for the support of the other schools, schools from which the non-catholics will derive all benefit, and the catholics themselves no benefit whatever. Moreover, the legislative grant, which is the people's money, contributed by catholic as well as by other citizens, will be exclusively devoted to assist the other schools, while the catholics will not get their proportionate share to maintain their own schools. Would not that be most unreasonable and a great injustice to the Roman catholics, while the other portion of the community would get more than naturally they would be reasonably and justly entitled to? Now, if the broader and more equitable construction prevail, the Roman catholics, in being allowed to have their schools maintained and recognized by law, would get nothing more than strict and fair justice, and the non-catholics would suffer no injustice.

Protestants and catholics have different views and different principles as to the education which children should receive in elementary schools. Some protestants are adverse to any religious teaching in public schools, and hold that such teaching should be purely secular; others, and, I think, a larger proportion of them, are desirous that the general principles of christianity be taught, and that there should be some scriptural reading, and other exercises of a religious character. As to Roman catholics, they go farther. While believing that the teaching of secular subjects required by the state should be given due consideration, and full effect, they hold, as a matter of conscience, based on the principles of their faith, that their children should also be taught in the doctrines and tenets of their church, and that the religious exercises should be those of the Roman catholic church, and no other.

As stated by the archbishop of St. Boniface in his affidavit filed, "protestants are satisfied with the system of education provided for by the public schools act, and are perfectly willing to send their children to the schools established and provided for by the said act. Such schools are, in fact, similar to the schools maintained by the protestants under the legislation in force immediately prior to the passage of the said act." The archbishop is, in that, substantially corroborated by the Reverend Professor Bryce who says, in his affidavit filed, that the presbyterians are able to unite with their fellow-christians of other churches in having taught in the public schools (which they desire to be taught by christian teachers) the subjects of secular education. It is easy to understand why the various denominations of protestants can unite in a common system of public schools, and why Roman catholics cannot similarly join their protestant fellow-citizens. Protestants are more or less divided between themselves on certain matters of doctrine, and on some formal precepts of a dogmatic character; but a very large number of general principles and a considerable amount of doctrinal tenets of christianity are held in common by all of them. If they differ on certain particular points, they agree on a great many things. In school matters they practically entertain the same views and find no difficulty in uniting together. But the differences between the Roman catholics and the various denominations of protestants are wide and substantial, and include most essential points of dogma and discipline. It is not an uncommon thing, in this country at least, to see protestant ministers of different denominations exchange pulpits on certain occasions. No one would even think of seeing the same thing done between a protestant

minister and a Roman catholic priest. The same characteristic differences are held by catholics to exist on the school question. While some protestants may not be able to see why catholics should have conscientious objections to send their children to public schools taught by protestant teachers, catholics have actually such conscientious objections, and hold that they are insuperable. A man's conscience is a thing of such a personal and idiosyncratic character that it cannot be measured by the particular feelings and dictations of any other man's conscience.

The state may hold that ignorance is an evil to be remedied by public instruction and may see that certain secular subjects, which are known to form the basis of a proper education, be taught in schools, assisted by public money. But in a community composed of different elements, the state should not ignore the particular condition, wants and just claims of an important class of citizens, especially when such important class are in every respect loyal and law-abiding subjects, and there is nothing in their wants and claims clashing with the rights of other classes, or contrary to or conflicting with, the letter, the spirit or the true principles of the constitution. The liberty of conscience is one of the fundamental principles of our constitution. What the Roman catholics ask in claiming the right to maintain their denominational schools is only the carrying out, to the full extent, of that fundamental principle. The desirability of having religious instruction combined with secular teaching in schools is, as stated by my brother Killam, considered as of the utmost importance by very many protestants as well as by Roman catholics.

I may, on this point, take some brief references from a very important public document—the final report of the commissioners appointed to enquire into the elementary schools act, England and Wales. The commission was issued by her majesty the Queen on the 15th January, 1886, to twenty-four distinguished men of England, chosen for their learning, their ability and their high social position, the very large proportion of whom were protestants of various denominations. The enquiry was very extensive, and lasted until June, 1888, when the final report was made, and afterwards presented by command of her majesty to both houses of parliament.

At page 112 of their said report, the commissioners say: "Upon the importance of giving religious as well as moral instruction, as part of the teaching in day public elementary schools, much evidence was brought before us." And at page 113: "All the evidence is practically unanimous as to the desire of the parents for the religious and moral training of their children."

At page 124, "We are convinced that if the state were to secularize elementary education, it would be in violation of the wishes of the parents, whose views on such a matter are, we think, entitled to the first consideration. Many children would have no other opportunity of being taught the elementary doctrines of christianity, as they do not attend sunday schools, and their parents, in the opinion of a number of witnesses, are quite unable to teach them."

Such were the views of the commissioners as to the religious teaching in schools.

As to the conscience question, the commissioners say, at p. 121: "While we are most anxious that conscientious objections of parents to religious teachings and observances in the case of children, should be most strictly respected, and that no child should, under any circumstances, receive any such training contrary to a parent's wishes, we feel bound to state that a parent's conscientious feelings may be equally injured, and should be equally respected and provided for, in the case where he is compelled by law to send his child for all his school time to a school where he can receive no religious teaching."

At page 127, "After hearing the arguments for a wholly secular education we have come to the following conclusions: * * * * (4.) That inasmuch as parents are compelled to send their children to schools, it is just and desirable that, as far as possible they should be enabled to send them to a school suitable to their religious connections or preferences." The same thing is repeated as the 69th of their concluding recommendations at page 213 of the report.

An argument has been advanced, in this country and elsewhere, that state aid given to schools where religious teaching is carried on, would be an endowment to religious

education, which the state should not undertake to do. Such, however, is not the opinion of the commissioners; the report says, at page 119: "We cannot concur in the view that the state may be constructively regarded as endowing religious education when, under these conditions, it pays annual grants for secular education in aid of voluntary local effort to schools in which religious instruction forms part of the programme."

As to the religious teaching in schools, the opinion of five of the commissioners who made a special report is thus expressed at page 244: "We recognize that for the great mass of the people of this country, religious and moral teaching are most intimately connected and that in our judgment the effectiveness of the latter depends to a very large extent upon religious sanctions. We think that the present liberty of religious teaching recognized by law for local managers, is an ample security, that so long as the prevalent opinion of the country remains unchanged, the education of the children and the formation of their character will be based upon those principles which are dear to the mass of the people."

The above quotations show that the views of the Roman catholics of this country on religious teaching in schools are not much different from those entertained by the mass, as well as by the cultured portion of the people of England, protestants as well as Roman catholics.

On the grounds hereinbefore mentioned, and on the authorities cited, I believe that the re-enactment in the Manitoba act of the main provisions of the 93rd section of the British North America act, was for the purpose of insuring, under the constitution of the new province, to any class of persons who might desire it, the maintenance of the denominational schools existing at the time of the union; that the words "or practice," added to the first sub-section of the 22nd section of the Manitoba act, can have no other meaning, and should receive no other construction than that they were clearly intended by the legislature to give a legal status to the said denominational schools, which, as a matter of fact, were known to exist at the time, though not recognized by any law; that the said interpretation should be adopted on the ground, amongst others, that if the Roman catholics are allowed to have their denominational schools maintained under the law, no injustice or detriment whatever will result to the other classes of the population, whilst otherwise, by being obliged to establish and support schools to which they could conscientiously send their children, and paying at the same time for schools from which they cannot and will not derive any benefit, the Roman catholics will suffer a very great injustice, and the legislature, by inserting the words "or practice," intended to provide, and in fact did provide against such injustice being done to the catholic minority in this province.

I am, therefore, led to the conclusion that the public schools act of last session, by which the denominational schools, heretofore existing, are legislated out of legal existence, prejudicially affects the privilege which the Roman catholics had by practice at the time of the union with respect to denominational schools; that, in consequence the said public school act is *ultra vires* of the provincial legislature, and that the two by-laws in question passed in compliance with the provisions of the said act, are illegal and should be quashed.

In my opinion, the order of my brother Killam should be reversed, and the summons made absolute, with costs.

BAIN, J.

This is an application to reverse an order made by Killam, J., dismissing an application made under section 258 of the municipal act, to quash the by-laws of the city of Winnipeg, numbered 480 and 483, authorising an assessment for city and school purposes in the city for the current municipal year. These by-laws enact that a rate or tax of two cents on the dollar shall be levied and collected on the whole assessed value of the real and personal property in the city, of which rate 4½ mills on the dollar is to be for school expenditure, and the balance for interest on debentures and ordinary municipal expenditure. The application to quash the by-laws is made on the ground

that they are illegal, "because by the said by-laws the amounts to be levied for school purposes for protestant and Roman catholic schools are united, and one rate levied upon protestants and Roman catholics alike for the whole sum." It is not questioned that the public schools act, 53 Vic. c. 31, M. 1890, authorizes the assessment or levy that the by-laws provide for, but is contended that the act itself, providing as it does for the establishment of a provincial system of free and non-sectarian public schools, for the support of which all taxable property is made liable to be assessed and taxed, is *ultra vires* of the provincial legislature, and that the previous school act, which the act assumed to repeal, is still in force, and that under it the taxes for the support of protestant and Roman catholic schools must be levied separately on the property of protestants and Roman catholics respectively.

Under the school acts in force in the province previous to the passing of the public schools act of 1890, there were two distinct sets of public or common schools, the one set protestant and the other Roman catholic. The board of education, which had the general management and control of the public schools, was divided into two sections, one composed of all the protestant members, and one of the Roman catholic members, and each section had its own superintendent. The school districts were designated "protestant" or "Roman catholic," as the case might be; the protestant schools were under the immediate control of trustees elected by the protestant rate-payers of the district, and the catholic schools, in the same way, were under the control of trustees elected by the Roman catholic rate-payers; and it was provided that the rate-payers of a district should pay the assessments that were required to supplement the legislative grant to the schools of their own denomination, and that in no case should a protestant rate-payer be obliged to pay for a Roman catholic school, or a catholic ratepayer for a protestant school.

The public schools act of 1890 repealed all former school acts, and established in place of the two sets of schools that had existed under these acts, a system of free and non-sectarian public schools, for the support of which all taxable property is liable to be taxed. It is under the authority that this act gives, that the by-laws in question were enacted; and the question that arises in the application to quash them is the exceedingly grave and important one, whether or not the legislature, in passing this act, has exceeded the powers and jurisdiction conferred upon it by the constitution of the province.

The power of the provincial legislature to make laws concerning education is derived from section 22 of 33 Vic., c. 3, D., usually known as the Manitoba act. By section 2 of this act, the provisions of the British North America act, 1867, except those of them that specially applied to or affected only individual provinces, and except so far also as they were varied by the Manitoba act, were made applicable to the new province, as if it had been one of the provinces that were originally united to form the dominion. By section 93 of the British North America act it is provided that: "In and for each province the legislature may exclusively make laws in relation to education, subject and according to the following provisions: (1) Nothing in any such law shall prejudicially affect any right or privilege with respect to denominational schools, which any class of persons have by law in the province at the union." Then a sub-section applies to the province of Quebec only, and extends to the dissentient schools in that province, whether protestant or catholic, all the powers and privileges that at the union the law of Upper Canada conferred on the separate schools there, and the third sub-section provides that, "Where in any province a system of separate or dissentient schools exists by law at the union, or is thereafter established by the legislature of the province, an appeal shall lie to the governor-general-in-council from any act or decision of any provincial authority affecting any right or privilege of the protestant or Roman catholic minority of the queen's subjects in relation to education." A fourth sub-section provides that the parliament of Canada may make remedial laws for the due execution of the provisions of the section and of any decision of the governor-general-in-council under it.

The 22nd section of the Manitoba act provides that "In and for the province the said legislature may exclusively make laws in relation to education, subject and

according to the following provisions: (1) Nothing in any such law shall prejudicially affect any right or privilege with respect to denominational schools which any class of persons have by law or practice in the province at the union. (2) An appeal shall lie to the governor general in council from any act or decision of the legislature of the province, or of any provincial authority affecting any right or privilege of the protestant or Roman catholic minority of the queen's subjects in relation to education," and a third sub-section is in the same terms as sub-section 4 of the 93rd section of the British North America act. This section of the Manitoba act was evidently intended to deal with and to cover the whole subject of education in the province; and I agree with my brother Killam that the powers conferred by this section cannot be either enlarged or restricted by anything that is in the 93rd section of the British North America act, and that the provisions of the 93rd section are material in this case, only in so far as they will assist us to arrive at the proper construction of the section of the Manitoba act. It is evident that the section in the Manitoba act was based on the 93rd section. But there are important differences, evidently made with some more or less definite intention; and a comparison of the two enactments can hardly fail to assist us in seeking to arrive at the intention expressed in section 22.

The general power of the legislature to make laws in relation to education is subject then to the restriction that "nothing in any such law shall prejudicially affect any right or privilege in respect to denominational schools, which any class of persons have by law or practice at the union." This sub-section differs from the 1st sub-section of section 93, in the British North America act, only by the addition of the words "or practice;" and as, prior to the union, there were no laws in force in the territory, which now forms the province, on the subject of education or schools, denominational or otherwise, the reason of the insertion of the words "or practice" is obvious.

The contention of the applicant is that Roman catholics, as "a class of persons," had, by practice, prior to the union, certain rights and privileges with respect to denominational schools; and that the public schools act, by establishing a system of free and public schools, and by making all assessable property of Roman catholics, as well as of all others, liable to be taxed for the support of these schools, prejudicially affects these rights, and that, therefore, the act is *ultra vires* and invalid, and that the school act and the school system it purports to repeal and abolish, are still in force. These rights and privileges, that it is claimed Roman catholics had before the union, by practice, are formulated by the learned counsel for the applicant to be, first, the right to be separate from the rest of the community with reference to education; second, the right to compete on equal terms with other schools; and third, the immunity from contributing to the support of any other schools than their own; and this last is claimed to be rather in the nature of a privilege than a right.

The reason why parliament made use of the expression a "right or privilege in practice," is more obvious, perhaps, than the precise meaning that should be given to the expression it has used. On the argument, no careful attention was given by any of the learned counsel to the consideration of the meaning of these somewhat vague and indefinite words, but in examining the question raised by the application, it is necessary to fix, as far as possible, and have in mind what is meant by the words, in order to determine if the evidence shows that Roman catholics, as a "class of persons," had the rights and privileges claimed, or any other rights and privileges, in practice, with respect to denominational schools; and if it appears that they had, then it will be further necessary to inquire if they have been prejudicially affected by the act in question.

In his affidavit, filed in support of the application, his grace the archbishop of St. Boniface, states that, prior to the passage of the Manitoba act, there existed in the territory now constituting the province of Manitoba, a number of effective schools for children. These schools were denominational schools, some of them being regulated and controlled by the Roman catholic church, and others by various protestant denominations. The means necessary for the support of the Roman catholic schools were supplied to some extent by fees paid by some of the children who attended the schools, and the rest was paid out of the funds of the church, contributed by its members. During

the period referred to, Roman catholics had no interest in or control over the schools of the protestant denominations, and the members of the protestant denominations had no interest in or control over the schools of the Roman catholics. There were no public schools in the sense of state schools. The members of the Roman catholic church supplied the schools of their own church for the benefit of Roman catholic children, and were not under obligation to, and did not contribute to the support of any other schools. His grace adds: "In the matter of education, therefore, during the period referred to Roman catholics were, as a matter of custom and practice, separate from the rest of the community, and their schools were all conducted according to the distinctive views and beliefs of Roman catholics as herein set forth."

The affidavits of Alex. Polson and John Sutherland, filed in reply, merely supplement his grace's affidavit by stating "that schools which existed prior to the province of Manitoba entering confederation were purely private schools, and were not in any way subject to public control, nor did they in any way receive public support. No school taxes were collected by any authority, prior to the province entering confederation, and there were no means by which any person could be forced by law to support any of said private schools." The affidavits do not show how these schools were established; whether the Roman catholic and the various protestant denominations, as churches, established the schools and appointed teachers and directly controlled them or whether they were established by individuals as private enterprises, and were conducted in accordance with the religious views of the denomination to which the individual proprietors belonged and to which they looked for support. However, it is stated that the schools were denominational ones, and that some of them were controlled by the Roman catholic church and the others by various protestant denominations. On these facts then, what "rights or privileges in practice" are Roman catholics shown to have had in respect to their schools?

I find myself unable to see how it can be said that they had any *privilege* in respect of their denominational schools, in any strict, or even popular, sense of the word "privilege." It is not shown, or claimed, that they enjoyed any benefit or advantage in respect of their schools that the various other classes of persons who had established schools did not likewise enjoy in respect of theirs, or that any other individual might not have enjoyed had he chosen to open a school. They were under no obligation, indeed, to contribute to the support of the schools of the other denominations, nor for that matter, to contribute to the support of their own schools, but in this respect all other classes of persons, and individuals as well, were precisely in the same position and enjoyed the same immunity; and that which is the common immunity and in the common and equal enjoyment of all cannot properly be said to be a "privilege" of any one person or class.

I may say here that I entirely agree with my brother Killam in holding that the schools that are established by the public schools act are not "denominational" schools. The advisory board is given power to prescribe forms of religious exercises to be used in the schools, but no pupil is required to attend these exercises against the wish of his parents or guardian. The 8th section of the act expressly provides that the schools shall be entirely non-sectarian, and that no religious exercises shall be allowed in them except that prescribed by the advisory board; and we must assume that the board will prescribe forms of religious exercises that shall be entirely non-sectarian. It is a matter of public knowledge that some of the leading and most representative men of some of the protestant denominations object to these schools, and, as his grace says in the affidavit, "would like education to be of a more distinctly religious character than that provided for by the said act." I quite admit, however, that the objection on the ground of the absence of an education that is distinctly religious will be felt much less by protestants than by Roman catholics, but I cannot hold that the non-sectarian religious exercises that the act authorizes, or even that the absence of all religious exercises or teaching in the schools makes, or would make, them protestant or denominational schools.

It is to be observed, too, that in this sub-section 1, parliament was not thinking only of the two great divisions of Roman catholics and protestants, but had in mind

and intended to preserve the rights and privileges that other classes of persons besides catholics or protestants had, or might have, in respect of denominational schools. This was expressly so held as regards the corresponding sub-section in the 93rd section of the British North America act in *Ex parte Renaud* 1 Pugs. N.B.R., 273, usually known as the New Brunswick school case; and, as the present learned chief justice of the supreme court said in that case, "We think that the term 'denomination' or 'denominational,' as generally used, is in its popular sense more frequently applied to the different denominations of protestants than to the church of Rome; and that the most reasonable inference is that sub-section 1 was intended to mean just what it expresses, viz.: that 'any,' that is, every 'class of persons' having any right or privilege in respect to denominational schools, whether such class should be one of the numerous denominations of protestants or Roman catholics, should be protected in such rights." For an example of the use of the word "denomination" in the sense ascribed to it by the chief justice, we have only to turn to paragraph 3 of the affidavit of his grace the archbishop, where he speaks of some of the schools having been "controlled by the Roman catholic church and others by various protestant denominations."

A recent learned writer on jurisprudence (*Holland, Elements of Jurisprudence*, 4th Ed., 70) has defined a "legal right," as "a capacity residing in one man of controlling with the assistance of the state, the action of others." But from the circumstances of the case, as well as from the addition of the words "by practice" to the sub-section as it is in the British North America act, it is evident, I think, that parliament intended that the sub-section in the Manitoba act should apply to other rights than legal ones. At page 69, the author, whose definition of a "legal right" I have given, says: "When a man is said to have a right to do anything, or over anything, or to be treated in a particular manner, what is meant is that public opinion would see him do the act, or make use of the thing, or be treated in that particular manner, with approbation, or, at least, with acquiescence; but would reprobate the conduct of anyone who should prevent him from doing the act, or making use of the thing, or should fail to treat him in that particular way. A "right" is thus the name given to the advantage a man has when he is so circumstanced that a general feeling of approval, or at least of acquiescence, results when he does or abstains from doing certain acts, and when other people act or forbear to act in accordance with his wishes; while a general feeling of disapproval results when anyone prevents him from so doing or abstaining at his pleasure, or refuses to act in accordance with his wishes." A "right" in this sense is nothing more than a "moral right," and Professor Holland so terms it and distinguishes it from a "legal right." In the case of *Fearon v. Mitchell*, L. R. 7 Q.B., 690, to which the chief justice has called my attention, the court, in construing a section that provided that no market should be established "so as to interfere with any rights, powers or privileges enjoyed within the district by any person, without his consent," held that the word "rights," especially when taken in conjunction with the words "powers or privileges," must mean rights acquired adversely to the rest of the world, and peculiar to the individual, and did not apply to a right which an individual enjoyed in common with the rest of her majesty's subjects. Had the words "right or privilege" stood alone in the sub-section, this is doubtless the only meaning that could have been properly given to them, but from the addition of the words "by practice," and from the state of circumstances in reference to which parliament was legislating, I am disposed to think the words were used in their widest signification, and that the "rights" that parliament had in view were in the nature of those that Professor Holland describes as "moral rights." What was meant, then, by the sub-section was, I think, that nothing in any law to be passed by the legislature relating to education was to prejudicially affect anything that any class of persons had been in fact, and generally in the habit of doing with respect to denominational schools, with the acquiescence, implied or expressed, of the rest of the community. A view of the meaning of the sub-section more favourable to the contention of the applicant cannot possibly be taken.

The affidavits show that before the union, private schools regulated and controlled by the Roman catholic church, had been established and maintained. These schools are

properly termed denominational schools, and they were it is to be inferred, established and maintained with the acquiescence of the rest of the community. If then I am not giving too wide a meaning to the term "right or practice," it must be held that it has been established that Roman catholics had the right to establish and maintain denominational schools, and, of course, to attend them, or send their children to them, if they saw fit.

From the fact that there were these denominational schools, and that they were all conducted according to the distinctive views and beliefs of Roman catholics, Roman catholic parents would naturally send their children to these schools rather than to those which were conducted by the various protestant denominations, which also, we may assume, were conducted according to the distinctive religious views of the denominations that controlled them; and the deduction of his grace the archbishop, is doubtless entirely correct when he says in the 6th paragraph of his affidavit, that, "in the matter of education, therefore, during the period referred to, Roman catholics were, as a matter of custom and practice, separate from the rest of the community." But this, it seems to me, falls far short of establishing that Roman catholics had a distinct and positive right to be separate in matters of education; and to say that they were thus more or less separate, is only to say in other words that they had the right to maintain denominational schools and send their children to them, if they saw fit. Their being separate was only an incident of their right to maintain the schools.

The other right that the counsel for the applicant claims that Roman catholics had at the union by practice, was the right to compete on equal terms with protestants in maintaining their denominational schools. All the schools were private enterprises, and all were upon the same footing and competed for the support of the public on equal terms, as far as any influence external to the class of persons who controlled the schools was concerned, and no one will question the correctness of the proposition advanced. The different schools had the right to compete with one another on equal terms, just as we might say that a merchant or tradesman has the right to compete with other merchants or tradesmen on equal terms. But this proposition seems to have been advanced with the idea that the schools established under the public schools act are denominational or protestant schools; and on this point I have already expressed my opinion.

It will be admitted that it is the imperative duty of every state or civil government to provide means by which, at all events, elementary and ordinary education shall be placed within the reach of every child in the community. It is recognized that it is a danger to the state that any portion of its citizens should grow up in ignorance, and that a state is justified in imposing taxation to provide means by which this danger will be prevented or lessened. Under the constitution of this province, the power to make laws in relation to education has been given exclusively to the provincial legislature. To it has also been given the power to impose taxation for provincial purposes; and in giving these powers, parliament clearly contemplated and intended that some system of public instruction and education would be provided by the legislature, and that, as far as should be found necessary, taxation would be imposed to provide and support such a system. The power of the legislature to make laws in relation to education was made subject only to one qualification or restriction, that nothing in such laws should prejudicially affect any right or privilege with respect to denominational schools which any class of persons had by law or practice in the province at the union. The legislature has by the act in question provided for the establishment of a system of public, free and non-sectarian or undenominational schools, at which every child in the province can attend, and has made all taxable property in the province liable to be taxed for the support of these schools. No one, however, can be compelled to attend these schools if he does not wish to, and there is nothing in the act that will in any way prevent any person, or class of persons, from establishing schools that shall be strictly denominational, and from competing on equal terms with other denominational schools that may be established. The rights then that Roman catholics had before the union to establish denominational schools and to attend them, and to compete, as regards their

schools, on equal terms with other denominations, or protestants generally, has not been taken away, and can be exercised now as fully as it could have been before the union. The attendance at these schools, it is true, may be prejudicially affected by the competition of the free public schools established under the act, in the same way that the business of a merchant, who has a right to carry on business, may be affected by another merchant opening a store in the exercise of a similar right, but the right itself is as little affected in the one case as the other. Nor do I think these rights in respect of denominational schools or any other right or privilege that on the evidence could possibly be claimed, can be said to be prejudicially affected by the fact that the property of Roman catholics, in common with the property of everyone else, is made liable to be taxed in support of the public, undenominational schools that the act establishes. No right in respect to such schools is affected by this taxation; the taxation to support these public schools is for a provincial purpose, and if Roman catholics, as is said, are less able to support their denominational schools by whatever amount of taxes they have to pay to the public schools, the same may be said of any other tax that is imposed by the legislature for provincial or municipal purposes. On the question of what is meant by the expression, "prejudicially affect any right," the judgment of the court in the New Brunswick school case, in which the court had to consider the effect of these words in the section of the British North America act, is instructive.

The parish schools act of New Brunswick, which was in force in that province when the province entered confederation, secured to all children whose parents did not object, the reading of the bible in the parish schools, and expressly provided that the bible, when read in the parish schools by Roman catholic children, should, if required by parents, be the Douay version, without note or comment. But the common schools act, 1871, which repealed the parish schools act, omitted this provision and declared that all schools conducted under its provision should be non-sectarian, and the board of education, under the powers given to it by the act, made the regulation that "it shall be the privilege of every teacher to open and close the school by reading a portion of scripture (out of the common or Douay version, as he may prefer), and by offering the Lord's prayer." It is evident therefore, that Roman catholics were thus placed in a very different position as regards the actual enjoyment of the right or privilege they had to insist that the Douay version should be read to their children, from that they were in before the passing of the common schools act, but the court held, that if this were a right or privilege in respect of denominational schools within the meaning of the sub-section, it was not taken away, although it was not protected by any express enactment, and that, therefore, the right could not be said to have been prejudicially affected so as to make the act invalid.

But, it is said, Roman catholics do not claim that the effect of the sub-section is to render them and their property for ever exempt from taxation for the support of public schools, and they admit that they are liable and willing to be taxed for the support of Roman catholic public schools as they were under the school system that the present act has abolished; and the principal part of the persuasive argument of the counsel for the applicant was devoted to an endeavour to show that having regard to the history of the controversy with respect to denominational schools in the older provinces, parliament could have intended nothing else by the provisions of section 22 than to confirm to Roman catholics in Manitoba the same rights and privileges in regard to separate schools that had been won for the minority in Upper Canada, and that were not only confirmed to Ontario, but were extended to Quebec, by the second sub-section of the 93rd section of the British North America act, and that the court should give effect to what we must thus assume, was the intention and policy of parliament. It is urged, too, that if sub-section 1 is to have no more effect than to preserve the right to maintain denominational schools, it is useless and inoperative, and that parliament would never have thought it worth while to make an enactment merely to preserve this right, as it cannot be supposed that any legislature would ever think of taking it away. It is satisfactory to find under the circumstances, that there is still this confidence on the part of the applicant in the fairness and liberality of those who may from time to time form the

majority of the legislature, but admitting that his confidence is well founded, and that the sub-section will never be required to preserve the right in question, it does not follow that it must be given the wider operation contended for.

It is, of course, necessary for anyone who is interpreting and construing a statute to make himself acquainted, as far as he can, with the history of the enactment and the external circumstances which led to its being passed, so that he may be so far in the place of those whose words he is interpreting that he can see what the words they used relate to. But "the external circumstances which may thus be referred to do not, however, justify a departure from every meaning of the language of the act. Their function is limited to suggesting a key to the true sense when the words are fairly open to more than one; and they are to be borne in mind with the view of applying the language to what was intended and of not extending it to what was not intended." (*Maxwell on Statutes*, p. 32.) And as Sir William Ritchie said in *Ex parte Renaud*, "It is a well established canon of construction that an act is to be construed according to the ordinary and grammatical sense of its language, if precise and unambiguous; and it is likewise a rule, established by the highest appellate authority, that the language of a statute, taken in its plain, ordinary sense, and not its policy or supposed intention, is the safer guide in construing its enactments." The question for a court always is, not what parliament meant, but what its language means.

But looking at the history of the controversy in regard to separate schools, and at all the external circumstances that we are asked to consider, it is very far from clear to my mind that parliament meant anything more by the provisions of section 22 than the language that it used naturally expresses. It will occur to everyone that, had it been the intention to give and confirm to Roman catholics, or any other class of persons in the new province, the right to have separate schools, and the immunity from supporting any but their own schools, the right would have been given in explicit terms. It was well known what agitation and bitter ill-feeling the question had caused in Upper Canada before it was settled; and if parliament had intended to settle it once for all for Manitoba, I find it impossible to think that, with the provisions of the British North America act that settled it for Ontario and Quebec before them, and from which section 22 was adapted, it would not have inserted a similar express provision in the Manitoba act. But it has not done so, and the inference I would draw from these external circumstances, as well as from the language of the section, is that parliament intended to leave the question to be settled by the people of the province themselves, as it had been by the people of the provinces in which a settlement had been arrived at, making only the natural and just restriction that existing rights in respect of denominational schools should not be prejudicially affected by any laws that the legislature should make. As we have seen, "various protestant denominations" were exactly in the same position as regards denominational schools as Roman catholics were, and if Roman catholics can claim the right to have separate schools and to support only their own schools, so can each one of these protestant denominations. But in the absence of any express and explicit enactment to this effect, it is hard to believe that it could have been the intention or policy of parliament to impose such a state of affairs upon the new province.

The act of the legislature that we are asked to hold to be unconstitutional and invalid is one that deals with a subject over which the legislature, by the constitution of the province, has been given exclusive jurisdiction, subject only, as far as the courts are concerned, to the one restriction or limitation that the laws to be made by the legislature shall not prejudicially affect these rights in respect of denominational schools. With the policy of the legislature, the court has nothing to do, and in dealing with such cases, the presumption of the court should always be, I think, in favour of the constitutionality of the act in question; and in this case the court should not undertake to declare the act invalid unless it is established beyond reasonable doubt that the legislature has exceeded its jurisdiction by contravening and infringing upon this restriction or qualification. The rule that I have indicated is the one that is followed in the supreme court of the United States, and on this subject I cannot do better than

adopt the language of Chief Justice Marshall in *Fletcher v. Peck*, 6 Cranch, 128, "The question," he says, "whether a law be void for its repugnancy to the constitution is at all times a question of much delicacy, which ought seldom, if ever, to be decided in the affirmative in a doubtful case. The court, when impelled by duty to render such a judgment, would be unworthy of its station could it be unmindful of the solemn obligation which that station imposes; but it is not on slight implication and vague conjecture that the legislature is to be pronounced to have transcended its powers, and its acts to be considered as void. The opposition between the constitution and the law should be such that the judge feels a strong and clear conviction of their incompatibility with each other."

I think my brother Killam was right in dismissing the application to quash the by-laws, and I agree with the chief justice that this application should be dismissed with costs.

— — —
In the Queen's Bench.

In the matter of an application to quash by-law 480 and 483 of the city of Winnipeg.

Upon the application of John Kelly Barrett, a resident ratepayer of the city of Winnipeg, by the way of appeal from the order or decision of Mr. Justice Killam, pronounced herein on the twenty-fourth day of November last past, dismissing with costs the summons granted herein on the seventh day of October last past, to quash the by-laws above referred to, upon hearing read the said summons, and the affidavits and papers filed, and upon hearing counsel on behalf of the applicant and of the said the city of Winnipeg.

It is ordered that the said appeal be and the same is hereby dismissed, and the said order pronounced herein, and dated the twenty-fourth day of November last past, be affirmed, with costs of this appeal to be paid by the said applicant to the said the city of Winnipeg forthwith after taxation thereof by the master.

Dated the 2nd day of February, A.D. 1891.

By the court.

G. H. WALKER,
Prothonotary.

— — —
In the Queen's Bench.

In the matter of an application to quash by-laws 480 and 483 of the city of Winnipeg.

Upon the application of John Kelly Barrett, the plaintiff herein, and upon reading the consent of the defendants, the city of Winnipeg, and a bond for security for the costs of the plaintiff's appeal to the supreme court of Canada, and other papers filed herein by the said plaintiff, I do order that the said bond be and the same is, hereby approved, and that the appeal of the above named John Kelly Barrett in this cause from the judgment of this court *in banc* pronounced herein on the second day of February, A.D. 1891, to the supreme court of Canada be, and the same is hereby allowed.

And I do further order that execution herein be staid, pending the said appeal to the supreme court of Canada.

Dated at chambers, this seventh day of March, A.D. 1891.

T. W. TAYLOR, C. J.

RETURN

(66)

To an Address of the Senate, dated the 23rd June, 1891, for copies of all correspondence between the department of justice and the judges in Canada charged with judicial functions in criminal matters as well as the attorney general of each province, respecting the expediency of abolishing the functions of the grand jury in relation to the administration of criminal justice.

By order.

J. A. CHAPLEAU,
Secretary of State.

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ANALYSIS OF REPLIES.

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<i>Supreme Court of Canada.</i>	<i>Ontario.</i>	<i>Ontario.</i>
Mr. Justice Gwyne.	Hon. O. Mowat.	Chief Justice Armour.
do Taschereau.	Chief Justice Hagarty.	Judge Price.
<i>Ontario.</i>	do Galt.	do Woods.
Hon. J. A. Boyd, Chancellor.	Mr. Justice Falconbridge.	do Kingsmill.
Judge Sinclair.	do MacMahon.	do Barrett.
do Ross.	do Ferguson.	do Wood.
do Lazier.	do Street.	<i>Quebec.</i>
do McCarthy.	do Robertson.	Chief Justice Johnson.
do Deacon.	do Rose.	Mr. Justice Pagnuelo.
do Ardagh.	Judge Baxter.	do Jette.
do Chadwick.	do Ketchum.	do Bourgeois.
do McDonald.	do Reynolds.	<i>Nova Scotia.</i>
do Boys.	do Burton.	Hon. J. W. Longley.
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do Robinson.	do Muir.	Judge Wilkinson.
do Hamilton.	do Benson.	
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<i>Quebec.</i>	do Cimon.	
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<i>Nova Scotia.</i>	Mr. Justice King.	
Judge Johnson.	Judge Watters.	
do Desbrisay.	<i>Prince Edward Island.</i>	
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<i>Prince Edward Island.</i>	<i>British Columbia.</i>	
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<i>Manitoba.</i>	Mr. Justice Crease.	
Hon. Jos. Martin.	do McCreight.	
Judge Ardagh.	Judge Cornwall.	
do Ryan.	do Bole.	

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Hon. Theo. Davie.		
Mr. Justice Drake.		
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do Harrison.		
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DEPARTMENT OF JUSTICE, OTTAWA, 29th October, 1890.

SIR,—The question of the expediency of abolishing the functions of grand juries in relation to the administration of criminal justice has on several occasions been brought to the attention of parliament, and intimations have from time to time been made to the government by municipal bodies, judges and others interested in criminal jurisprudence, that the abolition would be in the public interest.

It is my intention to lay before parliament in the near future a bill codifying the criminal law of Canada, both as regards substantive law and procedure. Before submitting it, however, I would be very glad to be favoured with your views upon the question above mentioned.

I have taken the liberty of addressing this circular to all the judges in Canada who are charged with judicial functions in criminal matters as well as to the attorney general of each province.

I have the honour to be, sir, your obedient servant,

JNO. S. D. THOMPSON, *Minister of Justice.*

OPINIONS RESPECTING THE GRAND JURY SYSTEM.

SUPREME COURT OF CANADA.

MR. JUSTICE GWYNNE.

The idea that the grand jury system constitutes in the present day the palladium of British liberties and serves as a shield interposed between the subject and the crown, necessary for the preservation of the liberties of the former from the tyranny, injustice and oppression of the latter, partakes altogether of too mediæval a character to justify its receiving a moment's consideration in the present day.

No perils to the due administration of criminal justice do, or can, in modern times arise from any interference, due or undue, upon the part of the crown.

Even in troublous times when the constitution under which we now live was being developed in England it is difficult to point out any real, substantial benefit which the subject derived from the intervention of grand juries in the administration of criminal law. Their functions were never of any higher order than to determine whether the *ex parte* one sided evidence submitted to them by the prosecution was sufficient to justify the accused person being put upon his trial. It must needs have afforded but little satisfaction to a person who may have been confined in gaol for six months or more awaiting his case being submitted to a grand jury to find at length that this tribunal ignored the bill containing the charge upon which he had already undergone several months' imprisonment. In such cases if the evidence submitted to the grand jury was the same in every particular as that upon which the accused had been committed, it is, I apprehend, to be feared that it was the interests of the public and of justice which had been prejudiced.

In some few state prosecutions doubtless grand juries may be said to have intervened as a shield between the subject and the crown, or courts subservient to the crown, but since the judges have been rendered independent of the crown, the scandal upon the administration of justice that such a shield was necessary has been effectually removed. It is the petit jury and not the grand jury which has always constituted and still constitutes under the direction of independent judges the true protection of the subject against unjust and frivolous prosecutions whether instituted on behalf of the public, or (and herein the only peril to the due administration of criminal justice exists) by wicked and maliciously disposed persons making false or frivolous accusations for the gratification of their own selfish, vindictive and malignant purposes. The legislature has, however, in modern times afforded a much more effectual shield to the subject against frivolous and unjust prosecutions than the grand jury system ever afforded, and has rendered the interposition of such a tribunal practically useless.

The provisions of the act formerly known as "The Vexatious Indictment Act" now embodied in section 140, of chap. 174 of the Revised Statutes of Canada, and the provisions of sections 69, 70, 71, 72, 73, 80, 81, and 82 of the same chap. 174 regulating the proceedings before justices upon criminal charges, are all framed with the most anxious solicitude to prevent persons being put upon trial upon frivolous or unjust accusations. These provisions, if they are not already, can be made abundantly sufficient to dispense altogether with the services of grand juries whose functions are now reduced to an enquiry, more ludicrous than real, whether the evidence upon which the justices had after careful investigation into the charges, as provided for in those sections, committed the accused parties to gaol to stand their trial, or had bound them over to appear and stand their trial, was sufficient to warrant the proceedings taken, and to justify the putting the accused persons upon their trial.

To me it has always appeared marvellous that the persons who are called upon to serve as grand jurors in this country have endured without vigorous protest the inconvenience to which they have been subjected in being taken from their business for the purpose of discharging such useless functions; the pay, however, which they receive affords, I presume, the explanation of their forbearance.

Mr. Forsyth, in his work on "Trial by Jury," while he admits that a very prevalent public opinion and frequently expressed as to the utter uselessness of the grand jury as a tribunal to take part in what he designates the "Grand Judicial Drama," is well founded if limited to the district in England within the jurisdiction of the central criminal court, seems disposed to justify their continuance in English counties as a school wherein the landed gentry and nobility of the counties, who constitute the class from which, in England, grand juries are taken, "shall hear an exposition of the criminal law from the judge," which he regards as being of essential service to them in the discharge of their magisterial duties through the year. This is the only plea of justification which, as far as I know, has ever been offered for the continuance of the system in England.

This may be, and perhaps is generally considered to be a sufficient reason for the continuance in England of a tribunal otherwise rendered useless by legislation and the security which in modern times the subject enjoys from all interference by the crown in criminal prosecutions. It is, however, to be borne in mind, that in England, the nobility and landed gentry who constitute the class from which grand jurors and justices of the peace are taken, themselves bear the burthen and expense upon which the continuance of the grand jury as a school of instruction of the magistrates in the discharge of their magisterial duties entails, and as they bear the burthen, there is less reason for one hindering them from taking part in the pageantry of what Mr. Forsyth calls the "Judicial Drama." In this country, however, where grand jurors are taken from the same class as that which petit jurors are taken and are paid for their services, the continuance of the system as pageantry in a drama is an expensive proceeding which is not, I think, compensated by any real and commensurate benefit.

The justices of the peace can always have the assistance of the county crown attorneys to advise them in the discharge of their duties, and the courts under sections 81 and 82 of the Criminal Procedure Act can always be invoked to intervene in the interest of the persons charged with crime when the evidence taken before the justices would seem to justify the accused being admitted to bail instead of being confined in gaol to wait their trial.

But whether the existing law regulating the discharge of their duties by justices of the peace out of sessions be or be not sufficient to warrant the immediate and total abolition of the grand jury system is of no importance, for it can be made sufficient in every particular wherein it may be deemed to be insufficient. In fine, there exists no reason whatever, in my judgment, for the continuance of the grand jury system, and it may, in my opinion, be abolished not only without any detriment, but with positive advantage to the due, speedy and inexpensive administration of the criminal law.

MR. JUSTICE TASCHEREAU.

I take the liberty to annex a memorandum of references to the answers to a similar circular sent in England by the Criminal Law Commissioners to various persons, in 1843. These references were collected by me some years ago, when, in the course of my researches on criminal law, my attention was indirectly brought to the question. The commissioners themselves in their report, say, of the persons whose answers they give, and the weight attaching to their opinions: "Amongst them are many persons of extensive information derived from practice in the courts of criminal law, including recorders, magistrates, barristers, clerks of the peace and attorneys. Their observations are worthy of the most attentive consideration."

Those of these answers which take the affirmative side of the proposition, it will be noticed, preponderate in numbers. And I venture to give you, as my opinion, sir, that the reasons they give in support of their views are convincing and irrefutable. Undoubtedly, some of the objections they see to the continuance of the system may not exist or be of any application in Canada. But on the other hand, it is obvious that many of the reasons given by those of these gentlemen who are against the proposed change are also not applicable here. Allow me to refer you more particularly to an article on the subject written as an answer to the Criminal Law Commissioners' circular, by John Pitt Taylor (appendix "C" of report). I could not attempt to demonstrate in more forcible terms or logical reasoning the expediency of the suggested reformation in the administration of criminal justice.

You may expect, sir, a great deal of opposition in this attempt of reform of the law. Almost all of the important law reforms in England, you are aware of it, which are now admitted to have proved so beneficial, have been carried against the opinion of a majority of the judges and of the bar.

You will be told, sir, I have no doubt, of the anciency of the grand jury. You will hear it repeated over and over again that in the grand jury lies the protection of the subject. As my answer to such remarks, the following passage in Taylor's opinion, *loc. cit.* may be appropriately quoted:

"There is an instinctive tendency in the minds of most men to admire and reverence the wisdom of bygone ages, and to cling with affection to those institutions which have stood the test of centuries. Such feelings are natural, nay, laudable, but they may be indulged too far. There is, no doubt, that in the days of the Tudors and the Stuarts, the grand jury was the bulwark of English liberty. In those unscrupulous times, the judges being removable at the pleasure of the crown, and petit juries being subjected to imprisonment and fine if they dared to find a verdict contrary to the direction of a dependent and sycophantic bench, a party who had become obnoxious to the reigning power could only hope for security through the medium of the grand jury; but, at the present day, when the judges are actuated by no personal fear or hopes, when petit jurors are at least as independent as the members of the grand inquest, and when an enlightened press promulgates, and by promulgating, controls the proceedings of courts of justice, it is idle to suppose that the intervention of a grand jury is any longer necessary to protect the defendant from oppression and injustice."

I add one observation to this quotation. In *Reg. Bullard*, 12 Cox, 353, a learned judge in England, as late as 1872, held that a grand jury is not bound by any rules of evidence. "They were" he said "a secret tribunal, and might lay by the heels in jail the most powerful man in the country by finding a bill against him, and for that purpose might even read a paragraph from a newspaper."

There may be a little exaggeration in these words; but it is undoubted law that a grand jury may present an indictment upon their own knowledge. Stephen's procedure, art. 185. And, may I suggest, if a grand jury does act arbitrarily, where is the remedy?—What control has the court itself over their findings?

A pamphlet by a Mr. Humphrey, called the "Inutility of the Grand Jury," is mentioned in a foot note to the Criminal Law Commissioners' Report, I have cited.

I have not been able to see it, but I take the liberty to call your attention to it, in case you can lay your hands on a copy.

Allow me also to cite the remarks, in an address to the grand jury of York, of the late Chief Justice Harrison, in Ontario, who, quoting Lords Brougham and Denman in support of his views, called the grand juries an expensive nuisance; and the opinion of Lord Chelmsford, who, as is well known, often endeavoured to improve them out of existence.

I do not lose sight of the principal argument brought by those who would continue the present system, that is: What will be substituted for the grand jury? To whom will the functions they now perform be delegated? The answer to these questions naturally gives room to a great divergence of opinion. The various references I have had the honour to give you, all contain attempts at solution of the question, but here again, of course, it cannot be lost sight of, the different plans they propose would be more or less applicable to Canada. I would submit as the principal features of a new system, the following general propositions:—

1st. In case of a committal by magistrates, to accept it as the finding of a jury—a *fortiori* of a committal by a coroner, under the verdict of a coroner's jury;—of course, when Crown prosecutor, if a public prosecution, consents to an indictment.

2nd. If a private prosecution, whether preceded by a preliminary examination and a committal or not, indictment to lay only on the fiat or permission of one of the judges who might sit in the court where such indictment is to be, or can be tried.

3rd. When the magistrate refuses to commit, as under section 80 of the Procedure Act, then the direction of the attorney general, or consent of the court or of a judge having jurisdiction to be obtained and to stand as the finding of the grand jury.

4th. Extend section 140 of the procedure to all crimes and misdemeanors (See Taschereau's Criminal Law, 2nd edition, p. 769) where there has been no preliminary investigation and decree the direction of the attorney general or the consent of the court or judge to stand as the finding of a grand jury. Give power, where necessary to summon and hear witnesses in support of the charge, to prove a *prima facie* case. Also to receive affidavits. This, of course, in private prosecutions also.

5th. As to binding witnesses, prosecutors, summoning defendants or arresting accused parties, the judge might do all these proceedings upon an application by the crown prosecutor, or clerk of the crown, or private prosecutor. In case of bailable offences, he might direct the accused to be brought before him, or before a magistrate, for the purpose of giving bail.

6th. There are numerous matters of detail which would necessarily have to be provided for, but I conceive no difficulty whatever to find regulations for the whole of them. It is a matter of study, combined with experience in the practice of that branch of the law. Assistance would undoubtedly be found in the reference to the Scotch and French system, where there are no grand juries. I believe that in Italy, also, there is no *juré d'accusation*; of this, however, I am not quite sure as the law there now stands.

MEMO.

Criminal Law Commissioners' Report (England). Vol. 2, Appendix.

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ONTARIO.

HON. O. MOWAT, ATTORNEY GENERAL.

I have to say that the Ontario government claims that the abolition of grand juries is not within the authority of the dominion parliament; that the grand jury is a part of the constitution of the court, and is not a matter of mere procedure.

With respect to the propriety of such abolition by the proper authority, whatever it may be, I think that the general sentiment amongst those of our people who have given attention to the subject is against the abolition of grand juries, and a majority of the members of the Ontario government concur in that view.

If grand juries were abolished, it would be necessary that their functions should be discharged by some public official, and all of us are against that change at present.

The expense of the grand jury might be considerably diminished by limiting the number to 15 instead of 24, which is the present number; and we are all of opinion that a grand jury of 15 would be as efficient and useful as one of 24. The Ontario legislature passed an act in 1879 (42 Vict., c. 13) making the change, but providing that the act should not go into force until a day to be named by the Lieutenant Governor by proclamation. The object of this provision was to afford an opportunity of procuring a judicial and authoritative decision on the question of jurisdiction before the act should go into effect, in case the dominion government should take the ground that the act was *ultra vires*. Some correspondence on the subject took place, but nothing was done in consequence of your department insisting that the judgment of the supreme court should be final, whilst we desired it to be subject to appeal to the privy council as in other cases. The proclamation was not issued.

If the change provided by the provincial act should commend itself to the minister of justice, he might introduce into his intended bill clauses corresponding with Act 42 Vict., c. 13, in case he approves of these. Or if he should prefer any variation, we might have simultaneous legislation so as to avoid any question of constitutionality. I do not recollect that any objection was made to the change proposed except as regards the jurisdiction of the legislature to make it.

CHIEF JUSTICE HAGARTY.

To discuss the abolition of the grand jury without a knowledge or intimation as to what it is proposed to substitute therefor is almost beyond my power to give any positive opinion.

The theory of a grand jury representing the intelligence and ability of the freeholders of a county is, I think, one admirable and most useful feature in the English system of criminal law and procedure.

If the grand jury be abolished what is to stand in its place between the person charged before justices and trial at assizes or sessions?

I deprecate in the strongest manner the leaving the discretion of arraigning or discharging the person charged to an official like the present county attorney—almost always a practising lawyer whose pecuniary interest it is always to proceed to trial and with whom practically (as I have heard remarked) the whole county is divided between those who are his clients and those who are not.

I make no charge or suggestion against the gentlemen holding that office, but the administration of justice should be wholly free from suspicion or invidious remark.

If a lawyer of good standing could be appointed to duties somewhat analogous to the Scottish procurator fiscal it would, I think, be essential in Ontario—whatever it may be in Scotland—that he should have no other contentious legal business to employ him in any county or counties for which he would be appointed.

No lawyer possibly could afford to hold such an office without a larger salary than any likely to be allowed for each county.

Possibly counties could be grouped together under one such officer.

Such changes would possibly require the co-operation of the provincial governments.

I am strongly in favour of the retention of the grand inquest, whatever may be its defects, until something clearly better and effective can be substituted for it.

It has many useful functions besides the presenting or ignoring of indictments. It is not generally a very well advised proceeding to dissociate the people from the performance of their part in administering the criminal law of the country.

I cannot too strongly press this latter point, and as a judge of some thirty-four years' experience I most strongly deprecate any large departure from the present system.

CHIEF JUSTICE ARMOUR.

The question of the expediency of abolishing the functions of grand juries is an essentially political question, and cannot be intelligently discussed without being discussed in its political aspect.

I must therefore as a judge decline to be a participant in a political discussion.

CHIEF JUSTICE GALT.

In my opinion the grand jury system ought not to be abolished in relation to the administration of criminal justice. There ought, in fairness to the accused and in the interest of public justice, to be some tribunal other than that of a justice of the peace before a man is put upon his trial. A criminal trial is a very serious matter; the accused is put to much expense and doubtless to much anxiety, and although justices of the peace no doubt are desirous of doing their duty they are not as a general rule qualified to decide on many cases which come before them. There are also several offences in which men, if they are of opinion the accused is not guilty, they are bound by positive statute to bind, and the prosecutor to prosecute on his request. With all respect for county attorneys, they are not, in my opinion, persons who should decide on criminal proceedings. They are the persons who conduct prosecutions at the quarter sessions, and as clerks of the peace are brought clearly in contact with the justices of the peace.

HON. J. A. BOYD, CHANCELLOR.

Upon the question of the abolition of grand juries I do not speak from personal judicial experience; but from reading and from conversation with others who have both favoured and disfavoured the system, I have long been of opinion that the time has come to abandon this expensive, anomalous and circumlocuting process.

I suppose all grounds for and against the grand jury system are to be found attacked and disarmed in three authors to whom I take the liberty to refer you as giving compendious and trustworthy information on the whole subject:—

1st. Hill on Repression of Crime, 443.

2nd. A series of articles by Kinghorn in an English law magazine of 1881 and 1882.

3rd. Lewis Draft Criminal Code xxxviii.

This last being an author generally suggestive in regard to the whole undertaking contemplated by the Minister of Justice.

HON. MR. JUSTICE FALCONBRIDGE.

I hold the strongest opinion that it is not expedient to abolish the functions of grand juries in relation to the administration of criminal justice in Canada.

I do not know that there are any more arguments in favour of their retention, beyond those which have been always advanced, but I am quite certain that age has not weakened those arguments and that they are as applicable to the conditions of our country as they ever were to the conditions of any country.

Briefly they are, firstly, the necessity for the interposition of some tribunal between the committing magistrate and the prisoner's dock at the sessions or assizes. It is necessary to bear in mind that it will be a long time before the Dominion can dispense with the services of an unsalaried magistracy composed of men who have not followed the law as a profession, even if it would ever be desirable (which I very much doubt) to replace them by a system of paid or stipendiary magistrates who have been regularly trained to the practice and principles of criminal law.

This being the case what system can be devised to replace the present functions of a grand jury? Certainly not the appointment of any single officer such as a procurator-fiscal, for many reasons.

The second consideration is the importance of the grand jury system as a factor in popular education. This has been fully discussed by abler pens than mine, but I can at least give my adhesion to the principle.

The gentlemen of the grand inquest necessarily carry away with them recollections of instructions on questions of law which must be of some value.

It is important not merely that justice should be administered in as pure and enlightened a form as possible, but that the general public should be of the opinion that it is so administered. And I know of nothing that, assuming that justice is fairly well administered, conduces to this end so much as allowing citizens of substance to take a part, and a very important part, in judicial proceedings.

I have not known of any abuse of the system either while I was at the bar or during my brief but tolerably active experience on the bench.

And I am of opinion that until something better has been tried in some other country, or something better suggested in this, the grand jury system ought to be retained.

HON. MR. JUSTICE MACMAHON.

The pressure of judicial work prevented me at an earlier day from replying to your circular letter desiring my opinion as to the expediency of abolishing the functions of grand juries in relation to the administration of criminal justice.

I have always entertained decided opinions in favour of the continuance of grand juries, and these opinions were much strengthened by a somewhat lengthened experience as crown counsel, as I found the care and vigilance exercised by grand juries in considering the bills coming before them, prevented many accused persons from being placed on trial where the committing magistrate acted upon evidence of circumstances, which at most should only have been regarded as creating a suspicion against the accused, thus totally misapprehending the effect of evidence.

Where there is not a trained magistracy, that is, a magistracy who by means of a legal education have become conversant with the rules of evidence, there should, I consider, be another tribunal to which committals should be subjected before the accused is put upon his trial. This is in many instances the only safeguard the accused has from being subjected to the ignominy resulting from being placed upon trial; and this applies with particular cogency where the prosecution is instigated by malevolence and endeavoured to be supported by perjury—a class of cases now not uncommon in the courts.

Where an accusation is made and a preliminary investigation is had before justices, followed by the committal of the accused for trial upon evidence "too weak and unsatisfactory to raise any fair presumption of guilt," the intervention of the grand jury and the ignoring of the bill in such a case prevents the disastrous consequences necessarily flowing from the widespread publicity resulting from the trial of the accused.

If officers were to be appointed exercising the like functions and clothed with authority similar to that possessed by the procurators fiscal in Scotland, there would be much greater difficulty on account of the wider area to be traversed over in the larger counties in Canada in performing the duties of such an office than in the small counties in Scotland. And if such an officer were to be paid by fees, it might often be urged that it was his cupidity and not the public interest which was actuating him in many instances in conducting prosecutions; and, if paid by salary, that his duties were being performed in a perfunctory manner; that the interests of the public were being neglected and criminals allowed to go unwhipped of justice.

In my opinion the grand jury system should be continued in Canada until, by legislation of a tentative character confined for the present to a few counties, it is ascertained by the working of some system which it is proposed to substitute for the present system, that it is found at least as practicable, as satisfactory, and more economical than the grand jury system.

The instances are now happily rare when it would be necessary that the shield of the grand jury should be interposed between the crown and the subject—as in charges of treason, in which cases the interposition of the grand jury should at all times be invoked before the accused is put on trial.

HON. MR. JUSTICE FERGUSON.

As you are doubtless aware, my connexion with the administration of criminal justice during the period of about ten years last past has, as a judge in the chancery division of the court, been of a very limited character. I mention this lest an undue weight should be attached to my view, which is drawn chiefly from books and a former experience of many years at the common law bar.

It is not, as I consider, needful that I should call attention to the existing statute or law or any part or parts of the same, as these are assumed to be known and familiar.

I understand that it is an opinion that is required, and my opinion is that at the present time it would be inexpedient and not in the interests of public justice to abolish the existing grand jury system unless something better to perform the same or similar functions, which I do not think has now an existence in the province of Ontario, should be placed in its stead.

I do not desire to be understood as intending to reflect upon or disparage in the slightest degree the intelligence or integrity of the magistracy of the province or of the public officers connected more or less with the administration of criminal justice. Yet looking at the matter practically, having in former years had some opportunity for observation on the subject, and, not a few instances being present in my mind, I am firm in the conviction that there should, in justice to an accused person, be some tribunal—so to speak—that does not, apart from the grand jury, now exist in Ontario, between the committing magistrate and the placing of such accused person in the usual way upon trial in the public court of oyer and termini and general gaol delivery, the latter being a matter of the greatest concern to a person who happens to be really innocent, for an acquittal does not usually, if ever, entirely remove the stain upon fair reputation in cases where the person has been “placed upon his trial.” This, perhaps, should not be so, but, it is, I think, unfortunately the fact.

Again, the effects of local prejudice, local excitement and I think I may add the unperceived and most probably unconscious desire of proving to be efficient in office are to be carefully, and, as far as possible, avoided. This, I venture to think, is in a large measure accomplished by the deliberations of a grand jury composed of a large number of members resident in various parts of the county.

I am aware that it has been said that members of grand juries have been “approached” by friends of the accused. The opportunities for doing this are not comparatively great, and, assuming that it has been done or attempted, there is not, so far as I have reason to think, ground for saying that its frequency has been such as to amount to anything like a public grievance.

Much has been said by authors and writers touching the grand jury system, its early history, its progress and the degrees of its usefulness from time to time during a long series of years, and it has sometimes been sought to place it in a ridiculous light, viewing it with the mind accustomed to the present state of things; but, with all this, I at present profess to have nothing to do. I am, as I understand, to look at the present working of the system under present facts and circumstances, and so doing, and endeavouring to take a practical view of the matter, my opinion is as above stated.

I have not said anything respecting the probable popularity, or the reverse, of such a change as that spoken of, or of the beneficial effects of a large number of the people of a country believing and knowing that they themselves take part in the administration of the laws of their country as productive of contentment, which practically lies at or near the basis of all good government. This is perhaps a subject that I should not presume to consider.

HON. MR. JUSTICE STREET.

I think that grand juries are of service in two ways: First, in standing between accused persons and prosecutions instituted from malicious motives and upon insufficient grounds. The stigma and the expense cast upon a person accused of a crime are both much more serious when the grand jury have sent him for trial in open court, than when they have thrown out the bill preferred against him. In the latter case the grand jury, composed of men well known in the community, to a great extent remove the disgrace from the accused, which would otherwise attach it to him from the mere fact that he had been accused, when they declare that the crown cannot upon its evidence sustain the accusation.

For this particular reason it appears to me that it would be difficult to devise a tribunal which would replace the grand jury and whose decisions would carry in the community the weight attached throughout the country to those of grand juries. In the second place I attach much importance to the fact that under the grand jury system the most respectable and influential men in the community are brought to take a personal and direct part in the administration of criminal justice. They see its workings, they are to some extent educated in its principles and the fact that they are themselves a part of the system helps materially, in my opinion, to give strength to the side of society as against the side of crime. So far as my experience has gone it has given me a great deal of confidence in the manner in which, as a rule, the duties of grand juries are performed. I have never, so far, had occasion to think that they had not acted up to the terms of their oaths in dealing with the bills laid before them.

HON. MR. JUSTICE ROSE.

I am entirely opposed to the abolition of the grand jury system until something better is suggested, and up to this time nothing by way of improvement, as far as I can judge, has been suggested.

From whatever experience I have had, I am not favourably impressed with the suggestion of leaving to any one person the question of whether an accused is to be put on his trial.

The tendency of employing any officer to prosecute appears to be, in course of time, to create a bias against accused persons. So large a proportion of accused persons are guilty that the defences of the innocent come to be looked upon as subterfuges, inventions, excuses, and not defences.

Then, the realized duty of not permitting any guilty one to escape causes the prosecutor to jealously, nay, suspiciously, view any statements or suggestions in favour of innocence. In certain police circles the formula in fact is "guilty, prove yourself innocent."

To this bias, grand jurors are not exposed, they are drawn from the body of the county, from the more substantial citizens, not inclined to allow flagrant guilt to go unpunished, or to visit too severely technical offences not accompanied by moral guilt. Untrammelled by technical training or learning they are prepared to administer natural justice, and, guided and directed by a careful charge from the judge, to administer the law so as to make their findings conduce to the interests of the public.

They often stand between officious officialism, instigated by sentimental moralism, and the victim, and prevent prosecutions where the strict interpretation of the law creates offences not aimed at by legislation, and where the interests of the accused and of society are the better served by preventing any further public inquiry or the disseminating of noxious facts, the knowledge of which tend rather to stimulate than to prevent vice.

I have cases in my mind, in this city and elsewhere on my circuits, where, by the judicious action of grand juries, the cause of public morality has been served, and the unwise zeal of ill-advised officials checked by ignoring bills which, if found, would have necessitated the public investigation of details disgusting and degrading without any corresponding advantage to either public morals or justice.

I have not become aware of any cases in which the judge has carefully charged the grand jury as to the independence and importance of their office, their duties to society and to the accused and the principles of law governing the several cases coming before them, in which the action of the grand jury has been such as to suggest any improper influence or want of realization of the sanctity of their oath of office.

If it be said that they are open to influence from outsiders, does not such an argument show the danger of having any one man, instead of many, to be acted upon? If the influence be that of public opinion merely, who is free from it? If corrupt influence is suggested, do the facts exhibited by the history of the past warrant the charge? I have seen or heard nothing to lead me to conclude that the danger is one requiring action to afford protection from it.

I have a very high opinion of the ability and honesty of the jurors, grand and petit, who have been engaged in courts over which I have presided during the past seven years. I have never known a jury refuse to respond to a call to duty in a case of morals or good government.

It is, to my mind, a strong argument that the attendance of such men at our courts is of great public advantage. They become acquainted with the working of our system of jurisprudence, familiarized with many of the principles of our law, and are prepared to suggest steps to be taken in the amendment of law or of bringing in of new statutes which may, to the lay mind, seem necessary. From these men generally come our justices of the peace, legislators, and many officials, and it is no little thing that they have previously had some training in our courts.

Then, through them, the body of the people can be reached and a healthy public tone created whenever, in the public interest the judges feel called upon to direct attention to new legislation, or evils requiring redress or legislative interference; or when dangers threaten our system by the combination of forces, political or otherwise, a wise deliverance on the subject in charges to the grand jury does much to awaken interest, remedy abuses, explain fallacies, and generally assist in the proper administration of public affairs. Through the grand juries we are able to press upon the public the necessities for various reforms, such as prison reform, care of non-criminal poor, improvements in the court houses, gaols, etc., etc., and to receive from them many suggestions indicating the trend of outside thought and opinion. It seems to me highly important to lead the people to believe that our courts are institutions of the country in which they are permitted to have a part.

By this system we have the combination of general common knowledge on the part of a jury with the experience and legal training on the part of a judge.

The institution is an ancient one, the immediate necessity for its creation may not now seem to exist, but this a tribute to the faithful conscientiousness of our rulers

rather than evidence that the time may not come when the people shall need some power, authorized by the constitution, to stand for liberties now conceded. How much we owe to the existence of such a system, for the peace we now enjoy, it may be difficult to determine, as difficult to measure as is the undefined but potent influence of the peace officer, who, in one view, is only one man, but in another is the whole force of the British empire.

The question of expense is too trifling to give weight to the argument for the abolition of the functions of grand juries. If they are beneficial let them remain; the country can well afford to pay for what it requires, and it may well be doubted if any other system could be worked efficiently at much less expense.

MR. JUSTICE ROBERTSON.

I beg to state that, after an experience at the bar of Ontario of over 35 years, during which period I was crown attorney for the county of Wentworth, including the city of Hamilton for several years, and was as well before as after I held that office, counsel for the crown on a great many occasions, and also had considerable experience as counsel for the accused, I am of the opinion that the time-honoured institution to which you refer has given an amount of satisfaction on the whole, which has made it honored and respected by the great body of the respectable, order-loving and law-abiding inhabitants of this country, and, in my humble judgment, it will be a great misfortune should the time ever come when it is eliminated from our system of criminal procedure.

There may have been cases where justice has been frustrated by the action of a grand jury, but such occurrences are so rare that they may be characterized as infinitesimal as compared with the good which has generally flowed from the deliberations and actions of this grand inquest.

As an educator of the people I think it has great merit. As an inspirer of love of law and order and respect for constituted authority, its influence is beyond question, and to destroy it would be to take a step which in my judgment would work incalculable injury. It has the effect of bringing the best men in each county from all sections of the county together; it teaches the people not only to respect the law, but gives them what I consider a most valuable insight into the manner in which justice is administered, and is a factor in elevating the tone of society throughout the land. The present jury system of this province, and the manner of choosing both grand and petit jurors, is sound, and gives general, in fact, so far as I have been able to observe, universal satisfaction. And while I am willing to concede that trial by jury in civil actions may be, as it is, well left to the choice of litigants in a great measure, yet experience has taught me that public interest is not to the same extent created in the administration of justice where cases are disposed of without a jury as when 12 men are empanelled to try the facts. And in this respect I think the country is just so much the loser, in so far as it has the effect of educating the people to a proper understanding as to their legal rights and liabilities.

I have never yet heard a sound, logical reason advanced for doing away with the grand jury, and I hope it may never be eradicated from our system of administration of criminal justice.

HIS HONOUR JUDGE BAXTER.

I am of the opinion that it is not expedient to abolish the functions of grand juries in relation to the administration of criminal justice.

JUDGE KETCHUM.

I beg to say that, after such consideration as I have been able to give to the subject, I am of the opinion that the change suggested is not desirable at the present time.

JUDGE REYNOLDS.

I have the honour to say that owing to the fact that the criminal business of the courts in these counties is, for the most part, conducted before His Honour Judge MacDonald, I have not had such a judicial experience of the grand jury system as would enable me to speak confidently about it; but from my observation during a thirty years' practice at the bar, I am decidedly of the opinion that the system should be preserved and continued.

I consider it a time-honoured institution, and a real safeguard of liberty.

The knowledge that (except in cases where the accused has himself elected to be tried without jury) before a man charged with a criminal offence at the assizes or sessions can be placed in the prisoner's dock, or be tried by a petit jury, a grand jury, after due inquiry and careful deliberation, have ascertained that there is sufficient evidence against him to warrant the proceeding, ensures a confidence in the administration of criminal justice which would not exist were the system abolished and the work now done under it performed by a police magistrate, county attorney, or other official, who might be accused of partiality or bias or of being actuated by improper motives.

The grand jury is a great educator of the people. Selected as its members are from all parts of the county and representing all shades of public opinion, they discuss the several topics which from time to time are so lucidly laid before them by the judges of assize and sessions, such as the necessity for properly-treated, well-ventilated and thoroughly-drained gaols, court-houses and public offices, suitable provision for the indigent, idiotic, lunatic and incurable, the establishment and carrying out of needful sanitary regulations, &c., &c., and, on their return to their homes, they take with them the ideas they have acquired, and thus public opinion is moulded, the Reeves of the several municipalities are instructed, and the hands of the county councils are strengthened when the time comes to make an appropriation for any of the objects above named. Again, by the judge's address to the grand jury, the various changes in the laws are made known to them, and through them to the people.

The attendance of the grand jury familiarizes them with the modes of administering justice and the procedure of the courts, and has a tendency to keep people out of petty and frivolous disputes, which otherwise would engender needless and expensive litigation.

Were the grand jury system abolished their duties would have to be performed by some special official, and experience shows that those who are public prosecutors are apt to become *persecutors*, instead of following the trite maxim of the English law "every man is innocent till he is proved guilty;" rather view the accused as guilty, and taking the role of the detective, seek only for such evidence as will strengthen their view.

Besides that tyranny which was known as the "tyranny of kings," there are other kinds of tyranny which require to be guarded against, and from which the subject should be saved.

There is the tyranny of the people, the tyranny of the mob, the tyranny of morbid sentiment. Hitherto the great protector in all these cases has been the grand jury, and who can say how soon, in the rapid tide of time with all the changes it brings, we may have to rejoice if haply the grand jury system has been preserved.

Those who clamour for its abolition talk of the great expense and waste of time it involves, but we should all remember that every man owes it to his country that he should sacrifice his time and his means to secure good government, the pure and unsullied administration of justice, and the blessing of liberty untrammelled.

From a money point of view the expense of the system is as nothing when compared with the advantages derived from it.

JUDGE SINCLAIR.

I beg to say that after careful consideration of the question, I have come to the conclusion that no very great injury could possibly result to the administration of justice from the entire abolition of the functions of that institution in relation to criminal matters.

I was formerly of a different opinion. But a number of cases coming within my experience, in which, in my opinion, some remarkable failures of justice resulted from the habit which grand juries not unfrequently possess of usurping functions not belonging to them, of assuming those of the judge and petit jury as well as their own, and of trying cases given to them for consideration in direct opposition to the express instructions of the court, very materially weakened my faith in their utility; and I am now firmly convinced that other and much more reliable means may be found for the protection of the individual from malicious and unfounded prosecution as well as for bringing actual offenders to justice.

The extended jurisdiction given to county judges and police magistrates in criminal matters has been productive of much good. I believe it has a tendency to diminish the number of offences, by furnishing the means of prompt conviction and punishment of offenders.

On the one hand, persons charged with offences are not so liable to be improperly convicted, if innocent, while on the other the chances of escape are lessened in case they are guilty. On the whole, I think, that the administration of justice, under this extended jurisdiction, has been eminently satisfactory.

I enclose herewith copies of my address to the grand jury at the last general sessions of the peace for the county of Wentworth and the presentment of the grand jury in reply, by which it will be seen that the feeling, so far as this county is concerned, is in favour of the abrogation of the system.

I am aware that I am in the minority—most of the judges favouring the retention of the system—but I shall continue in my present opinion in spite of this.

JUDGE ROSS.

I beg to enclose the result of ten years' experience of grand juries. Clerks of the peace, crown attorneys and sheriffs have a large pecuniary interest in maintaining the present abuse. Judges, especially county judges, are fond of pomp and circumstance and of airing theories before grand juries, but Senator Gowan is absolutely right. Grand juries are worked to clear the guilty and condemn the innocent.

Seventy-two jurors, grand and petit, attended the Bruce fall assizes. The court was over in one afternoon and these seventy-two men came home as they went. They were selected by two successive courts of selectors before being on the jury lists. They were then balloted for by a posse of magistrates and officials. Their names were copied over several times by the clerk of the peace at \$2 per panel. They were served by the sheriff's bailiffs at 14 cents per mile, of which the sheriff gets four-fifths for doing nothing. The men lost their time and more, the county paid their mileage and \$1 to \$1.50 for each day, going and returning, an average of of two days at least, for some it was three days, and all for something like a farce.

The jurors are selected first by a local court in each minor municipality, composed of the reeve, clerk and assessor, the highest assessed half of the male ratepayers not over sixty eligible. This court does its work well, it has no motive for going wrong, the members or some of them know every ratepayer. They first exercise their discretion as to whose names will be balloted for and then they ballot. They usually charge \$4 per day, perhaps it is worth it, but there is no law to that effect. Their proper remuneration is that to which councillors or members of the court of revision in townships are entitled. The next court sits at the county town at a cost of \$22 to \$25 per day for something less than a fortnight's time. It is composed of the county judge, the warden, the treasurer, clerk of the peace and sheriff. It

has the power of selecting a half jury list, or two thirds jury list. Except for the first year this power has never been exercised, though it worked well. One of the members who has a pecuniary interest in having as many services as possible, burked the economy and Bruce has always had as many jurors summoned as the county of York and Toronto combined, although the business of the latter is twenty times as great and sometimes two jury courts sit at the same time in different court rooms in the city court house. This second court of selectors is useless, for the members do not know one in fifty of the people whose names they canvass, but they know something of the geography of the county and the more widely they scatter the jurors the more fees for one of the selectors. The panels had far better be balloted for from the rolls made up by the local selectors, the clerk of the peace first striking off those who are exempt because of recent service. The grand jury, especially for the assizes can be packed, and I have had to strive to counteract efforts in that direction. The grand jury is a relic of mediæval times, a "Star Chamber" in position, capable of gross abuse but with very little capacity for good. It is an English institution composed in England of high caste people, members of the so called county families, very useful for the protection of such families, and for smothering scandals in high life, as well as for doing strict and impartial justice to the poor, especially where the interests of landlords and poachers come in conflict, and in all similar events. In England and in Ireland where the English system has been made the means of oppression, grand juries have municipal and other powers of great extent, of which the governing class have no scruple in availing themselves. In Ontario the grand jury is almost effete, their sole function is to say whether indictments prepared and submitted to them are true bills or no bills. The county judges' criminal court has deprived the grand jury of three-fourths of its former work. The bills which are sent before the grand jury are cases in which the party accused has already elected before the county judge to be tried by a jury, or cases in which he has given bail to appear and take his trial, or cases in which a magistrate has taken the sworn depositions of witnesses, or cases in which a judge has ordered a person to be prosecuted. If a crime does not appear on the depositions there is no basis for sending a case to the grand jury, so that in all cases in which an investigation has already taken place, the intervention of the grand jury is either unnecessary or improper, and being a secret tribunal composed of unskilled and inexperienced men, in judicial matters at least, whose conduct is not subject even to public opinion, their deliberation cannot be disclosed by themselves, it is almost impossible that in this country, where grand jurors differ in no great degree from the petit jurors, that their working should be free from abuse and perversion of justice. I will reserve instances of such perversion and the discussion of the remedy for next week.

Grand Juries, their expense and uselessness.

Two hundred and eighty-eight jurors go every year to the county town to assist the judges in dispensing justice. They lose on an average five days' time each, which at \$1 per day, makes \$1,400. The county pay their expenses, that is their mileage, \$1.50 for grand jurors, and \$1.25 petit. This sum is inadequate, for the county councillors say that \$3.00 per day does not cover their personal expenses. The jurors must at this rate cost to themselves and the county three times \$1,400 or \$4,200, for there is no reason why jurors should not fare as sumptuously as county councillors. This brings the total cost to \$5,760, besides the mileage of 288 of which only a rough estimate can be made, for some travel 110 miles, from the extreme end of the peninsula, and occasionally a suitable man is found at the county town, say \$1,000 more for mileage. One third of this little army of jurors are grand jurors. I have, perhaps, with one exception, my successor, as much experience with grand jurors as any man in the county. I have dealt with nearly 40 such juries. I have the kindest recollections of them, they were invariably considerate, and I must say, pliable. They seldom, if ever, ignored the advice and guidance which they sought and obtained from me. I do not think there is a case in which they went wilfully wrong. Generally the best men in the county, and, it often struck me, a more intel-

ligent looking body than the county council, I never knew an instance in which their services could be said to have advanced the cause of justice or saved the innocent from unjust prosecution. There may have been such cases, but not in my experience in the county attorney's offices in different counties in ten years.

I have had grand juries which did not embrace a single man who had ever administered an oath, or who knew how it was done. Juries who could do absolutely nothing with an unwilling witness. The same questions of evidence come before the grand jury, sitting as a secret tribunal, as puzzle chief justices and on which chief justices divide in opinion. It is almost impossible for totally inexperienced men to distinguish between direct and hearsay evidence, and between a witness's knowledge of facts and his opinions and prejudices. In secret sessions, as all inquiries of the grand jury are, witnesses can say what they think suits them. I do not know and never heard of a case of perjury committed before a grand jury being prosecuted, and how many "No bills" are the result of such a thing being committed? It is before the secret inquisition that the wealthier criminal has his tremendous advantage over his poorer fellow, the outcast, who has no friends or money to buy them. Success in killing a case in the secret chamber is as good to criminals as success in open day and before the full court. Cases are smothered in secret which could never be met in the full blaze of an open trial. I have given a copy of the grand jury panel to a person committed for trial; he was entitled to it under the statutes on paying the fee. I afterwards learned that he had canvassed every member of the body at their homes, and being a clever, artful criminal, he got his bill ignored and was free.

I knew of a case where a crown officer sent to supersede the crown attorney at an assize, left the name of the prosecutor and chief witness for the crown off the indictment, so that he could not be examined by the grand jury. The accused passed the evening before with the foreman, and he would do nothing for the prosecutor, and thus without any fault of the body of the jury, justice was balked and a wealthy criminal escaped for the time.

I have known of a case in which a ruffian went to the house of a lonely woman at midnight, and the better to intimidate her took with him a butcher's cleaver with which she swore he threatened her. Because the foreman was an intimate and boon companion of the accused, he managed to laugh the whole thing out of court, and when the poor victim heard of the grand jury's decision she fainted.

JUDGE LAZIER.

In relation to the administration of criminal justice, I beg to state that in my opinion grand juries could very well be dispensed with in the courts of this province, particularly at the sittings of the general sessions of the peace, without the public interest being prejudiced thereby.

Since the establishment of the county judges' criminal courts and police magistrates' courts, having concurrent jurisdiction with the sessions, when parties elect to be tried by these tribunals, the greater part of the criminal business formerly disposed of at the general sessions has been and is being disposed of at these courts, without, I believe, any complaint being made of the absence of a preliminary investigation beyond a grand jury. This circumstance added to the fact that nearly all committals to gaol for trial by jury are now made by police magistrates (usually lawyers by profession), renders, in my opinion, the intervention of a grand jury less necessary than formerly, and their presence of late at the grand sessions of the peace little more than a mere matter of form by reason of the little business requiring their attention, although involving very considerable expense for their attendance.

I therefore think, so far at least as the general sessions are concerned, the experiment might well be tried of dispensing with the grand jury thereat and their duties left to be performed by the police and other magistrates and the county attorneys or to such other public prosecutor as might be deemed advisable.

JUDGE BURTON.

I am aware that great differences of opinion exist on this matter, but I entertain a very strong view: That whatever may be ultimately decided on, the time has not arrived for so radical a change, and that before any such is made, the public should be informed of the nature of the tribunal intended to take the place of the grand jury and have the most ample opportunity of considering it. I am not aware how the appointment of an official like the procurator fiscal has been found to work in Scotland, but it would under any circumstances be impossible in practice to entrust the supervision of all criminal investigations at present performed by grand juries to one such official, and the persons filling the office should be men of high attainments, and to whom large salaries should, to secure efficiency, be paid. There are obvious reasons, which will suggest themselves to every one accustomed to the administration of criminal justice, why so large a discretion should not be entrusted to the county attorneys. I am of opinion, therefore, that the first consideration is: What is it proposed to substitute for the grand jury? and then does that tribunal, or is it likely to, command the confidence of the public? Until there is a pretty general consensus upon the latter point, grand juries ought not, I humbly think, to be abolished.

The system itself has many advantages even in peaceful times, but should a period of intense political excitement ever again unfortunately arise with its usual concomitant of inflamed public meetings and results in inflammatory harangues and writings, it might be of great importance to interpose such a body as the grand jury as a protection to persons prosecuted for such offences. But instances are not wanting when even in quiet times unjust prosecutions have been put an end to by means of the grand jury. I need only refer to one in this city within the last few weeks in which a coroner's jury under the influence of some highly improper articles in a newspaper, found an official of the Canadian Pacific Railway guilty of manslaughter—where it was manifest that no such offence could properly be brought home to him, and in which he was spared the ignominy and exposure of a public trial by the refusal of the grand jury to find a true bill. The minister of justice will no doubt recollect a case some 15 or 16 years ago, in which a charge of arson was preferred by a discharged servant against a highly respectable firm in the city of London—who were committed by one of the metropolitan magistrates for trial, and bail refused. Yet when the case came before the court, the late Sir Alexander Cockburn, who presided, said that the depositions did not even warrant their commitment and the grand jury threw out the bill; these men who had occupied a high position in society, being compelled in the interval to submit to the association of the vilest criminals and being in consequence of such imprisonment utterly ruined. In this case, it is true the refusal of the magistrate to grant bail was the real grievance, but still it illustrates how important a bulwark against oppression and prejudice a grand jury may be even when the committing magistrate is a professional man with good experience. With us the magistrates are not always men of much education and the necessity therefore of interposing a barrier between them and the public trial of the accused is the more necessary. But there is another reason, which has always appeared to me to be worthy of consideration. The grand jury are, to a large extent and should be more so, composed of justices of the peace. It has always seemed to me that the opportunity thus afforded to witness the manner in which justice is administered in the higher courts contrasting in some instances I fear with the arbitrary manner in which it is sometimes administered by some magistrates, must have a salutary effect. As to the expense, I doubt whether any very great saving can be effected, if the tribunals elected to fill their places are to be such as to inspire confidence. They ought to be men competent to fill the position, and such men ought to be above suspicion, and to secure such men larger salaries should be paid. On the whole, I am of opinion that any change at the present would be premature.

JUDGE PRICE.

I have delayed in replying to your circular letter of October the 29th, on the abolition of grand juries, hoping I could come to some conclusion satisfactory to myself, but must admit I am unable to do so. If some satisfactory official board could be named, before whom the complaint and evidence could be laid and no indictment proceeded upon except such as such board should advise, I think grand juries might be dispensed with and money saved.

While our magistrates are no better qualified than they are at present it would not be wise to put every one to the expense, disgrace and danger of a trial. There must be some protection between the ordinary magistrates' commitment and trial. As to how or of whom such a board could be established so as to give satisfaction, is where I fail to satisfy my own mind.

Grand juries are generally attacked on the ground of expense. I have, to test this, had the deputy clerk of the crown to give me for ten years back the number of cases laid before grand juries, the number of bills found, and number of "No bills." The results are as follows:—

At assizes, 69 bills, 25 "no bills."

At sessions, 39 bills, 18 "no bills."

The question is, has the expense been much or any more of the 24 grand jurors disposing of the work, than it would have been had the 48 petit jurors, constables, court officials, &c., been detained to try and dispose of the cases in which the grand jurors found no bills. In my mind it is some greater, but not as much as generally thought. It is also doubtful if judges could in many cases get through their work in the allotted time.

If a satisfactory official or board can be appointed, the expense would be overcome and I believe equally satisfactory results arrived at.

JUDGE DEACON.

During a judicial life of now over twenty-four years, I have annually assisted in the selection of the persons to serve on both panels of grand jury—as well for the assizes as for the general session in this county of Renfrew, and have had frequent opportunities of observing the working of the system and of forming an opinion as to its usefulness or otherwise.

In my humble judgment the abolition could be safely made and would be in the public interest. When engaged in the selection, the remark has, on more than one occasion been voluntarily made by one or other of the selectors, in effect, that it would be much more desirable to put the men we are now selecting (as grand jurors) upon the petit jury list, where they could be of some use and where they are most wanted, and we were all agreed as to the soundness of the observation.

No doubt it is a venerable institution and did good service in bygone years, but it was always and ever a piece of machinery, that, in the hands of unscrupulous men, was capable of doing mischief and occasionally defeating the ends of justice, without any responsibility whatever. If the evidence to be laid before this exclusive and secret tribunal could always be presented to them by a competent officer and under the direction and control of a judge, (and there would then be some reasonable certainty that it was full and fairly put before them) and their action upon it open to public criticism, there would be more confidence in the fairness of their finding and their practical review of the committing justice's decision. But as it requires at least *twelve* to agree, in order to find a bill, how often has it happened that when the panel in attendance was not full, five or six men (and sometimes fewer) have been able to control the ten or eleven who were in favour of finding the bill—the majority for the time being controlled by a mere fraction of their number. This has always been a dangerous weakness in the constitution of the system and will always be so.

The grand jury, as is well known, was originally brought into existence for the protection of innocent citizens from interference by the crown, or by powerful subjects causing unjust prosecutions, but as these proceedings have long become practically things of the past, the grand jury as an institution is no longer necessary and has outlived its usefulness—a really innocent person will generally desire a public and open vindication, and will not be content with a “No bill” or other suppression of the charge. My own conviction is, that for every *one* innocent person that a grand jury has saved from trial *three or four* guilty ones have escaped, by their hastiness, or otherwise, ignoring the bills.

The value of any education in law or criminal procedure which the members of any grand jury can possibly obtain at any attendance upon a court must be exceeding small, and is, in my opinion, greatly counterbalanced by the mischief they can do when not under the eye of the court.

If the 140th section of cap. 174 of the Revised Statutes of Canada (the Criminal Procedure Act) were made to cover all cases, and a competent public prosecutor appointed to take charge of all prosecutions, then there would be a tangible responsibility, and every step taken openly and above board, the result being a more efficient and less expensive administration of justice, with every satisfaction to the public, who would be able to see for themselves every step in the criminal procedure.

I am aware of the diversity of opinion among the judges, in regard to the continuance or otherwise of the grand jury system, but, apart from them, I do not think the public at large are greatly exercised, one way or the other, about the present system, and would readily fall in with and approve of the change when its beneficial operation was made to appear.

I may, perhaps, be excused from entering into any further details, when I say that having carefully considered the views presented to the Senate by the Hon. Senator Gowan in February, 1889, I am in full accord with him, and do not think his arguments have been or can be successfully controverted, and I trust these views will at an early period obtain a favourable recognition by all parties, and result in the desired change of procedure.

JUDGE JONES.

As my court of general sessions of the peace was in session I gave expression to my views on this question in my charge to the grand jury of the said court. On the next page I beg to send you for the information of the minister, a printed copy containing a summary of my remarks on that subject.

On the same page I beg to hand you a copy of the grand jury's presentment, which contains a reply to that part of my charge.

I desire to emphasize what is stated in my charge in reference to the grave objection there would be to the duties of the grand jury being relegated to the county crown attorney, an officer who is wholly paid by fees.

The fees of this officer (as clerk of the peace and as county crown attorney, in every criminal prosecution by him, either at the county judges' criminal court, or at the general sessions of the peace, would amount to a sum between \$20 and \$30.

There should be no such personal inducement for him to institute criminal prosecutions. I am afraid there are now in many counties a great many unnecessary prosecutions in the county judges' criminal courts where there are no grand juries.

I think if the government would ask for a return from the clerks of the peace for each county of the number of persons prosecuted in the county judges' criminal courts, and the number of acquittals of such persons, and also a similar return of the persons prosecuted, and those acquitted at the courts of assize, and of the general sessions of the peace, it would be found that there are a much larger proportion of acquittals in the cases tried at the former court than at the two latter courts where there are grand juries.

This would show that there are a greater number of frivolous or unnecessary prosecutions in the court where there are no grand juries, than in those where there are.

Extract from Judge Jones' charge to the grand jury, at the December general sessions of the peace for the county of Brant.

The question is now agitated as to the expediency of abolishing the functions of grand juries in relation to the administration of criminal justice, and in connection with this matter the minister of justice for the dominion is proposing to lay before parliament a bill to codify the criminal law of Canada.

As to whether grand juries serve a useful purpose in the proper administration of the law at the present time has been much discussed of late. It is admitted that they have in the past been of service, but it is alleged that their usefulness is gone. It is true that there is now but little, if any, fear of the people being unjustly prosecuted or harassed by the authorities in power, as was the case in the early English history, but this was only a part of the protection afforded to the subject by grand juries. In charges preferred by private prosecution there is the same necessity that some competent disinterested tribunal or authority should pass upon the charge before the accused should be subject to the hardship and disgrace of being put in the criminal dock. Without such a protection a person might be harassed on some frivolous accusation, or worse still, on a serious charge instigated by some malicious person.

It may be argued that as we now have public prosecutors in each county who would prefer the charges against the accused in case the grand jury was done away with, there would be a sufficient protection that no one would be improperly put under his trial. But it must be remembered that in criminal matters the charge is first preferred before the magistrates, some of whom are but little qualified for a judicial investigation, and the accused is by them committed for trial. The functions of the public prosecutor, the crown attorney, are usually to formulate the charge and to bring the accused before the court for trial. He does not receive evidence and examine witnesses, as the grand jury does, to see if the charge is well founded and, if not so found, to dismiss the complaint and discharge the accused by finding "no bill."

There is, to my mind, another very serious objection to the substitution of the crown attorney for the grand jury. As the law now stands the crown attorney would, to a certain extent, act in a judicial capacity, in deciding whether the accused should be put on his trial, and he then would become the prosecutor at the trial. This is an anomaly in British jurisprudence, and would place the crown attorney in a very difficult and embarrassing position.

Besides this, any public officer who is substituted for the grand jury should be a person paid by salary and not by fees, so that he would be quite independent in his action in such matters.

There is also this difficulty in making the change suggested. The appointment of the crown attorney and the decision of the question as to whether he should be paid by fees or salary, rests with the Ontario government. Whereas the doing away with the grand jury system is a matter wholly within the jurisdiction of the dominion government, and to bring about the change suggested joint action would seem to be necessary by the legislatures of the provinces and the dominion. This might be difficult to bring about.

In the meantime, would it not be best to "let well enough alone," and not do away with a system which has in the past been of such great service in the proper administration of the criminal business of the country.

I should be glad if you would, in your presentment, give your views on this subject.

Grand Jury's reply to Judge Jones.

The grand jury were pleased to hear the reference made by your honor in your charge to them respecting the grand jury system, and they consider the question now being raised by the minister of justice for the dominion, on which he seeks the advice of the judges and others interested in the administration of criminal justice

throughout the provinces, as to whether the grand jury should be abolished or retained as a factor in such administration of justice, a most important one. The grand jury thank your honour for the remarks made to them on this subject, and they value them all the more because they come from a gentleman of so ripe experience in the administration of civil and criminal justice. In their room they have given the matter their serious consideration, and they have deliberated upon conflicting opinions as to the usefulness of the system and the possibility of the adoption of some other procedure which would take its place in the event of its abolition. In such deliberations the grand jury have not depended for the presentment they are about to make on the reliability of the grand jury on account of its antiquity. They have preferred to discuss it on the grounds of its present utility and they have come to the conclusion, and they now respectfully present to your honour, that in their opinion the grand jury should be retained, that any substitute therefor as yet suggested, and so far as known to this grand jury, might be fraught with danger to the liberty of the subject; that the undue exposure of an accused person without the preliminary investigation of a grand jury, to the contumely which would be his were he publicly placed in a prisoner's dock should not be countenanced, that the investigation which it is now the province of the grand jury to make should be continued until some better system can be brought to light and disclosed, that the functions of the grand jury should not under the existing state of the law be relegated to a crown prosecutor, thereby rendering his position an anomalous one, and that in the opinion of this grand jury the grand jury system has not yet outlived its usefulness.

JUDGE ARDAGH.

My own experience during the greater portion of the seventeen years I have, from the office I hold, been in a position to form an opinion, leads me to say that the usefulness of grand juries has borne but a very small proportion of the expense involved in connection with them.

I am aware that the argument of expense has not a great deal of weight—and I admit that if grand juries still served the purpose for which they were originally created, the expense involved ought on no account to be taken into consideration.

But there are far greater objections than this to the system—objections which I need not here repeat, inasmuch as they have appeared from time to time in the columns of the public press, notably so in an article in the issue of *The Week* of 21st November last, where they are ably and correctly summarised, and with which I am altogether in harmony.

The main questions are—First, Does the grand jury not serve as a protection to the subject as against the Crown? (to put it shortly).

In this country, and in this, the end of the 19th century, such a question hardly requires serious consideration.

Secondly—Does the grand jury serve as a safeguard against unjust and oppressive prosecution?

My experience has been that for such a purpose its powers have never been really called into play. On the contrary, I know them to have been used to interpose as a shield to the guilty.

The abolition of the grand jury would, of course, be dependent upon the institution of some other body, or some official, duly appointed for the purpose. And in referring to the proposal to conform to the Scotch system, I need hardly draw your attention to the fact, well known, but never commented on, that grand juries are now open to the influence of the counsel for the crown, and depend much upon them for advice—though theoretically they are supposed to be an entirely *independent* body. Not that I would for a moment insinuate that counsel for the crown ever knowingly exceed their duties in dealing with the grand jury, but they have opportunities for influencing them, which it cannot be but, in the nature of things, they make use of, albeit unknowingly on the part of either counsel or jury.

And, in connection with this, it must not be forgotten that in all criminal proceedings prior to the actual trial of the prisoner, no responsibility (beyond that of their own consciences) is cast upon anyone, either grand juries or crown counsel, or are the conduct, actions, or motives of either ever inquired into, nor can they be.

A public criminal prosecutor, who had no private interests to serve—whose position and responsibility would be powerful inducements to a strict and conscientious performance of his duties, and whose conduct would subsequently be liable to comment from the court—is the best substitute for the grand jury that at present occurs to me.

JUDGE CHADWICK.

I am in favour of such abolition.

I refrain from enlarging upon the reasons for my opinions, because the subject has been so fully and ably treated by Senator Gowan in his address during the session of 1889 (which I have just re-read) and I cannot say more than I fully concur in all that was said by him on that occasion.

JUDGE McDONALD.

For a period of about seventeen years last I have, as a judge, been concerned with the administration of criminal justice, and for a period of over fifteen years last past have been the chairman of the court of general sessions of the peace in and for the united counties of Leeds and Grenville, in the province of Ontario, and as such have been brought officially into contact with the working of the grand jury system at thirty-one sittings of said court.

I am convinced that the grand jury may very well be dispensed with. Owing to the provisions of the acts permitting prisoners to elect to be tried before a county court judge, or before a police magistrate, many—perhaps a majority—of the cases which should formerly have claimed the attention of the grand jury are now removed from action at its hands. And while quite agreeing that there is much—even though it be perhaps merely a sentiment—in the principle or rule that no man may be convicted of an indictable offence in our ordinary courts of justice unless and until twenty-four men—his peers—have pronounced him guilty, (twelve by the finding of a true bill, and twelve by the finding of a verdict against him) yet we see that a great many do not avail themselves of this palladium, but elect to be tried by a judge or magistrate without the intervention of a jury—and I do not believe there would practically be any injustice done to a person charged with an offence, if he should, at the sitting of the court, be placed upon his trial before the ordinary (or petit) jury without the intervention of a grand jury. In the great majority of cases, perhaps nine out of ten—there has already been an investigation before a magistrate, which has enabled the defendant to know the charge made against him. And in case of the abolition of the grand jury I presume in no case would a man be placed upon trial before a petit jury without such previous investigation having been had.

Again, the abolition of the grand jury would—at any rate in the province of Ontario—result in lessening, and that quite materially, the expenditure of public money. I believe there are, at least, thirty-seven county towns in Ontario. In each of these there are held at least two sittings of the court of oyer and terminer and general gaol delivery, and two sittings of the court of general sessions of the peace in each year. (I believe in two or three counties there are held three sittings of the former court.) For each sitting twenty-four grand jurors are selected and possibly served. But let us suppose that only twenty are summoned, and that the attendance averages three days on each occasion. I believe the pay is now \$2 per diem, and that there is an allowance of ten cents a mile for travel. Let us suppose that the average travel is twenty miles for each man. The sheriff receives thirteen cents per mile for travel to serve, but if he serves several on the same trip he only receives a running

rate, and not the full rate from the county town for which each man served. Let us average his travel at ten miles for each man served. He also has fees and so has the clerk of the peace. Two justices of the peace attend at the drafting of the panels. Now let us make up the probable average cost in one year for one county:—

Clerk of peace:—

Four panels in the year at \$2.....	\$8 00
Entering.....	8 00
For certificates and other matters, say.....	4 00
	—————\$ 20 00

Two justices of the peaces:—

For each of four panels \$2.....	8 00
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The sheriff:—

Four panels at \$4 each	\$ 16 00
Eight copies at \$1.....	8 00
Serving twenty jurors at 25 cents each.....	5 00
200 miles for each court—800 for four courts at 13 cents per mile.....	104 00
Attending to draft panels, say.....	8 00
Summoning grand jury, four courts at \$12.....	48 00
	—————\$189 00

Grand jurors:—

Twenty at each court—four courts in year—eighty men in year; three days each court—240 days at \$2 per day.....	\$480 00
Mileage at 10 cents, eighty men in a year, average 20 miles each, 1,600 miles at 10 cents per mile.....	160 00
	—————\$640 00

Total for one county..... \$857 00

Multiply this \$857 by 27 (the number of counties or county towns as above) and we have the sum of \$31,709 as the total expense which the grand jury system entails upon Ontario alone in each year. And possibly it is even greater than this. And occasionally there is not a criminal case to be disposed of, and the grand jury will remain in session one or two days during which a visit will be made to the gaol, &c., and a presentment will be handed in.

Again, the efficiency of the jury system would be increased by the abolition of the grand jury, for then the men who are now reserved for service upon it—generally the best material—would be available for service upon what is now called the petit jury.

Lastly, I believe the grand jury has not that weight or influence in the community which it might be supposed to have. It has been more or less my practice in addressing the grand jury to deal with it as composed of representative men drawn from different sections of the united counties, and to call attention to local matters in reference to which it seemed desirable action should be had—such as the provision of a poor house, so that persons innocent of crime, but unable to support themselves, should not be committed to gaol. I have had every reason to be satisfied with the response made by the grand jury to my suggestions, as embodied in its presentments. But although copies of these presentments, or of such part of them as seemed needful, have been from time to time directed to be forwarded to the county council, little or no influence appears to have been exercised by them upon that body, and the representations or recommendations made have been useless or comparatively so in procuring such legislation as it was aimed to obtain. From this I am led to the conclusion that the grand jury as a representative body has little or no weight in the community.

So, under all the circumstances, I am satisfied the grand jury may very well be dispensed with. I see many reasons why it should not be—I see no good reason why it should be retained—unless, indeed, it be because it is a historical institution, and as such has claim upon us. But for a sentiment—and after all it is but that—the public should not be put to a great expense without any commensurate return.

JUDGE BOYS.

I have the honour to state that I have long been of the opinion that grand juries, as now constituted, have outlived their usefulness.

I am not clear as to whether it is expected that I should follow up the above statement with reasons for my opinion and with suggestions as to how the duties now performed by grand juries could be attended to if such juries were abolished. I will, however, refer to these matters and leave the minister of justice to trouble himself with what I say if he thinks proper to do so.

With regard then to my reasons I need say nothing more than refer to the able and comprehensive speech of the Hon. Senator Gowan when introducing his motion relating to this subject in the dominion Senate. I heartily endorse all he said on that occasion.

With regard to the performance of the duties now attended to by grand juries, I offer the following suggestions:—

For the sake of those who cling to the present grand jury system from sentiment perhaps more than from any solid reasons they can see for their continuance, I would retain the name of grand juries, but would reconstitute them by reducing their number to three for each county or district, and these three I would select from the best available public officials. I am not sufficiently acquainted with the criminal machinery of the provinces, other than Ontario, to make any comprehensive suggestion as to who these officials should be, but in Ontario and in any other of the provinces where county crown attorneys or other similar officials exist, I think one of the three should be selected from these gentlemen. The other two should have no pecuniary or other interest in encouraging the multiplicity of indictments, and should be as free from political influences as possible. Where there are local judges in each county or district, they might be suitable persons; and where there is only one local judge, some other county official could be selected. I think the sheriff should not be chosen, as sheriffs and crown attorneys have an interest in multiplying and prolonging criminal trials, and with a majority of the grand jury so interested, rightly or wrongly they might be open to suspicion in cases where indictments broke down; and all possibility of such suspicions arising should be avoided, at least at first while the new system was on trial. For this reason also I think the crown attorneys should not act alone.

The three officials constituting the new grand jury might perform all the duties of the present grand juries, but I would suggest they might perform some of them in a different manner with advantage. For instance, if they could meet at any time, prisoners who may now have to be kept in gaol for long periods of time awaiting trial, but against whom there is not sufficient evidence to find a true bill, or where no indictable crime is charged against them, might have their cases examined by the grand jury, and with the consent hereafter mentioned, obtain their liberty without the injustice being perpetrated, and the expense incurred, of a long imprisonment of an innocent person. The new grand juries might visit the goals and public institutions at least quarterly, and more often if they liked, for such visits tend to cleanliness and order in the keeping of such places, and should be retained.

The present system of the trial judge invariably "charging" the grand jury and the ordinary presentments of grand juries and replies thereto, should be done away with since they occupy a good deal of time and cause expense with very little return. If the new grand jury should desire to make a presentment it might be sent to the trial judge, or the crown counsel, or the Government, and if the judge

should desire to make any "charge" regarding public matters he might address the general audience, or the bar, or the first or any other petty jury sworn before him.

A majority of the three grand jurors should form a quorum, and where two only are present and they differ on any question, the proposed action thereon should be dropped for that meeting; but in no instance should a prisoner be discharged by the new grand jury until after the opening of the court at which his case would under the present system be examined by the grand jury, unless the crown attorney gives his consent. This would allow time to see what evidence could be obtained against him, other than the evidence before the magistrates, and yet would not prevent the prisoner's discharge at once where the crown attorney has no expectation of being able to prove an indictable offence.

To prevent any deadlock under the new system from illness, absence or other inability of the grand jurors to act, or under any other circumstances, it should be the duty of the trial judge on being informed by the crown counsel, or otherwise, that the case of any prisoner, whether sent for trial before or after the opening of the court, has not been taken up and disposed of by the grand jury, to either himself investigate the case and find a true bill or order a discharge, or else to appoint some three persons to perform such duties, of whom the crown counsel present might be one.

The grand juries, or other person or persons performing their duties, should have power to find a true bill, or order a discharge, on the depositions taken before the magistrate, or other depositions taken at their instance, or that of the crown attorney or crown counsel, before the same or other magistrates or commissioners, and taken either in the presence or absence of the accused.

The above observations will outline my ideas without going into more details. I claim for the changes suggested the following advantages:—

1. The members constituting the new grand juries would be more permanent and publicly known and consequently would be a more responsible body.

2. They ought to be able to do the work better from their professional training and from the practice and experience their permanency would give them.

3. The new system would set free the present grand jurors for service on petty juries and so raise their standard.

4. The injustice of keeping accused persons who cannot, or do not care to be tried summarily in the county court judges' criminal courts, in gaol, or under suspicion, for long periods when no sufficient evidence to convict them is forthcoming, and the expense connected with such cases, would be reduced to a minimum.

5. The expense of serving and paying grand jurors would be saved.

6. Probably the expense of counsel and trials would be lessened by fewer true bills being found—the expense of trials including the pay of sheriff, constables, petty jurors and all other officials for the time occupied.

7. By the system I propose there would probably be as little change in the present system as would be consistent with the abolition of the objectionable features of the present grand juries.

The only disadvantage of the change which occurs to me, would be a shock to a portion of the community, occasioned by the partial destruction of a time-honoured institution, but which would likely only be short-lived.

JUDGE UPPER.

In my opinion, and after carefully thinking the matter over, that the time has now arrived when the functions of grand juries in relation to criminal matters can be safely dispensed with, whatever reasons may have existed ages ago for establishing grand juries as a part of the machinery of criminal justice, I think no longer exist. But it should be borne in mind that justices of the peace frequently commit persons for trial when the evidence does not warrant it; and if the grand

jury system should be abolished, some plan should be devised so that a person improperly committed for trial would have his case reviewed by some authority competent to say whether the accused party should be tried or not. As far as my experience goes about nine persons out of ten elect to be tried in the county court judges' criminal court where there is neither grand nor petit jury, in cases where that court has jurisdiction. I consider that if grand juries were abolished, not only would there be a great saving of expense in criminal administration effected, but that the rights and liberties of those whom grand juries are supposed to protect would be as effectively protected by whatever authority may be substituted to supply the place and functions of grand juries in relation to criminal matters.

JUDGE ROBINSON.

After long experience I can give a decided opinion in the affirmative. I never knew them do any good, I have known them do harm, I have known a grand jury prevent a man bringing a case of nuisance before the court for trial—a case which he was perfectly justified in prosecuting. I have known a grand jury throw out a case against an assessor for undervaluing Canada Company's lands, giving as a reason that they all did it, and sir, you must remember the case of Governor Eyre. Two grand juries refused to allow that man's conduct to be tried.

JUDGE MUIR.

As the "institution" is an old one and has grown up with our system of jurisprudence, it would I think be dangerous and, therefore, unwise to disturb it, unless very good reasons could be given for the change. But no reason, of any account, that I am aware of, has been, or could be, adduced for its abolition, except the saving of expense. This object, however, could scarcely be attained by the substitution for the jury, as proposed by some, of "a paid official"; because, in order to obtain the services of a really competent person, a liberal salary must be allowed.

Moreover, it may I believe be seriously questioned whether, even if no other objection existed, any such appointment would secure that general confidence of the country, which the present system has so long enjoyed.

As to the matter of expense, it is well known that one of the principal items is incurred in effecting service upon individual jurymen, petit as well as grand, which is done by bailiffs at considerable outlay. I would suggest service by means of *registered letters*; this change would of course result in a large reduction.

JUDGE BENSON.

So far as my experience of over twenty years at the bar and of eight years on the county bench has enabled me to form an opinion, I have seen no reason to find serious fault with the present grand jury system. It has worked well in these large counties, and I am not aware of any important miscarriage of justice which could be laid to its charge.

The grand jury are, as a rule, a very independent, respectable class of men, and they bring to the discharge of their duties an intelligent and reliable common sense, which enables them to perform their functions, under the direction of the court and with the assistance of the crown officer, in a highly satisfactory manner. I have had no reason to think that they have at any time laid themselves open to any of the objections which have been urged against the system.

As to the question of expense, it will be seen by a return of the county's treasurer, which I enclose herewith, that for the last five years the expense of grand juries for these counties has averaged \$1,020 per annum,—a sum which is not extravagant in view of the duties performed and the benefits accruing. I cannot but think

the educational influences resulting from the grand jury system are of great value. Not only is a number of intelligent men, from different parts of the counties brought together several times in the year, and enabled to acquire practically an insight into and knowledge of the administration of criminal justice, but by the charge of the judges to grand juries an opportunity is also afforded to the general public to acquire much valuable information and to learn something of the rudiments of criminal law and of the methods of its administration.

The argument advanced for the abolition of the grand jury, that thereby a large number of the most intelligent members of the community would be set free to serve on the petit jury had, no doubt, in the earlier years of this county's history, some force; but with the general diffusion of education now existing throughout the land, there can be no dearth of competent jurors for both panels.

The objection strongly urged against the system, that the grand jury is a secret and irresponsible tribunal, could be removed by making its proceedings open and public, and allowing the cross-examination of the witnesses for the crown. The reasons which probably induced the secrecy of the proceedings do not exist now, as they did in the earlier years of the institution of grand juries.

The question of the abolition of the grand jury has frequently been brought to the notice of that body in these counties, by the judges of assize and by myself, as chairman of the general sessions, and in each instance so far as I remember, their presentment has been unfavourable to the change. For my own part, after giving the subject much attention and consideration, I am not prepared to say that the abolition of the grand jury is desirable nor have I yet seen an unobjectionable substitute for it proposed.

It is admitted on all hands, that some investigating official or body must be interposed between the ordinary justice of the peace and court of trial, and it has been suggested that the county attorney system of Ontario might be used for that purpose in this province, and a similar officer be delegated to discharge the duties elsewhere, where such an official does not now exist. In my humble opinion such important and far-reaching functions should not be discharged by any person who is allowed at the same time to practise his profession. The public prosecutor who is to be submitted for the grand jury should be removed from all temptation, as well as opportunity to make use of the criminal law for the attainment of supposed civil rights or the redress of supposed civil wrongs. He should be absolutely independent in his office, and hold a quasi-judicial position. This can only be accomplished by his holding office during good behaviour and being paid by salary. The salaries which would have to be paid to secure capable persons for these offices would entail a much greater expense upon the country than does the grand jury system.

The existing methods of procedure are doubtless not perfect, but to my mind the changes which I have seen suggested are open to at least as serious objections.

Return sought for by Judge Benson in reference to costs of service and attendance of Grand Jurors at Assizes and General Sessions for the past five years.

(In giving the sheriff's fees for mileage in his service, he is allowed eight hundred miles for the whole court—the grand jurors being one-third—to \$35.00 and service \$6, or \$41 for each court—\$164.00 for the year.)

1885.		
Attendance	\$825 70	
Sheriff's services.	164 00	
	\$989 70	
1886.		
Attendance.....	\$706 20	
Sheriff's services.....	164 00	
	\$870 20	

1887.		
Attendance.....	\$852 90	
Sheriff's services	164 00	
	—————	\$1,016 90
1888.		
Attendance.....	\$990 10	
Sheriff's services.....	164 00	
	—————	\$1,154 10
1889.		
Attendance.....	\$908 90	
Sheriff's services.....	164 00	
	—————	\$1,072 90

County Treasurer's Office, Cobourg, 1890.

E. A. MACNACHTAN,
County Treasurer.

JUDGE HAMILTON.

After an experience of thirty years as crown attorney and judge, I have come to the conclusion that the services of grand juries can now be safely and advantageously dispensed with.

JUDGE LACOURSE.

In consequence of different acts of parliament having been passed from time to time since 1857, relating to the trial of criminals and criminal procedure, I am of the opinion that the grand jury system has become practically unnecessary, except perhaps in large cities. For the years 1888, 1889 and 1890 there were tried in the county judges' criminal court for the county of Waterloo (this county) 160 criminal cases, and during this time only ten bills were presented to grand juries at a cost to the county of \$1,000. The grand jury system has, I think, become a thing of the past.

JUDGE E. B. FRALICK, HASTINGS.

In all cases where a prisoner elects to be tried by the county judge the services of the grand jury are dispensed with, then their chief functions are to revise the work of the convicting magistrate who has sent a prisoner up for trial. By far the larger number of criminal informations come before a police magistrate, generally a legal practitioner who is paid by the county for his services.

I am of opinion that grand juries are unnecessary. The appointment of provincial inspectors makes their supervision of gaols, &c., unnecessary.

My opinion is that the best substitute for a grand jury would be a grand inquest composed of 7 justices of the peace for the county, under 70 years of age, who should have the powers now possessed by the grand jury, to be drafted by ballot or in as nearly the same manner as the grand juries are now drafted, as possible.

Let the grand inquest be drafted from all qualified magistrates under 70 years of age, by the same parties who now draft the juries—say 35 for each year, which will give four panels, one for each court, and seven to spare for deaths and sickness, &c.

I think it would be quite as efficient and be a saving of several hundred dollars per annum to the county; this, of course, in case it is deemed necessary to have a substitute for the grand juries.

I herewith enclose a statement of expenses of grand juries to this county for the past five years.

This table does not include sheriff's fees for service.

Expense of grand juries to the county of Hastings.

1886, Superior Court.....	\$232 20	
do Inferior do	120 30	
do Superior do	146 10	
do Inferior do	143 20	
	<hr/>	\$642 30
1887, Superior do	\$169 60	
do Inferior do	196 40	
do Superior do	196 83	
do Inferior do	163 90	
	<hr/>	726 70
1888, Superior do	\$157 90	
do Inferior do	195 10	
do Superior do	194 70	
do Inferior do	340 10	
	<hr/>	887 80
1889, Superior do	\$206 60	
do Inferior do	210 00	
do Superior do	217 30	
do Inferior do	182 80	
	<hr/>	816 70
1890, Superior do	\$251 00	
do Inferior do	153 30	
do Superior do	265 90	
	<hr/>	670 20
For Inferior Courts say.....	\$200 00	
	<hr/>	200 00

NOTE.—The police magistrate for Belleville is paid a salary of \$1,200 for the city, and \$500 and fees by the county. There is also another police magistrate for North Hastings.

JUDGE ERMATINGER.

I feel some hesitation owing to the shortness of my experience as a judge, in expressing an opinion on a question so important as that of the retention or abolition of the grand jury system.

My opinion, however, is that the grand jury has survived its usefulness and should be abolished, providing some provision for the investigation of cases otherwise than by the ordinary justices of the peace is made for those parts of each county having no stipendiary police magistrate. I would not advocate the abolition of the grand jury if committals for trials could be made by the magistracy as it at present exists in this province (Ontario).

I would recommend that the present magistrates be given power only to issue summonses or warrants in cases other than trivial offences triable by themselves, and that the county judges should hear the evidence (in localities where offences are committed if need be) and commit for trial, or that a stipendiary magistrate be appointed in each county for the same purpose. The employment of the county judges for this purpose would be the cheapest, as no doubt all or almost all would be willing to act on a reasonable addition being made to their salaries for the extra work and travelling expenses involved, while a substantial salary would have to be paid to a stipendiary magistrate and the appointment would, I presume, have to be made by the provincial government which might not be willing. The fact that many cases might come for trial before the judge who had committed the accused, is in my opinion no objection, and indeed much trouble and expense would be avoided through cases not being sent up for trial wherein judges under the present system withhold

them from the jury, even after committal by a magistrate and the bill of a grand jury. In favour of the appointment of county police magistrates, on the other hand, would be the fact that they could be given the enlarged powers of the present police magistrates and summary trials would be much more efficiently conducted than by ordinary justices of the peace.

I would under no circumstances favour the investigation of cases by an officer, whether magistrate, crown attorney, procurator fiscal or by whatever title known, who is paid by fees.

In case the grand jury be abolished and no other safeguard than the present magistracy provided, I would suggest that no committal for trial be allowed unless by a bench of at least three magistrates of whom two should concur to commit. I would not, however, recommend the abolition of a grand jury with this safeguard only—it might even be difficult to obtain three magistrates in every case, unless they were paid to attend.

In what I have said I do not intend any reflection upon the magistracy of the province further than the inexperience or want of education and legal training of the majority and the utter incompetency of some for the required duties rendered necessary.

My remarks of course have application only to this province and are so intended.

JUDGE HUGHES.

The Honourable Senator Gowan from his long experience of nearly forty years, and my own observation after an experience of thirty-seven years in discharge of the duties of county judges in the counties of Simcoe and Elgin respectively, have given each of us a wide field of observation, such as few men have had the advantage of, and I must say, without reserve, I entirely affirm all that Senator Gowan has advanced upon the subject.

In speaking with men of long experience, as well as those belonging to the legal profession, and other men in positions affording opportunities for observation and reflection, I have, with very few exceptions, found an almost unanimous conclusion that the functions of the grand jury are an expensive relic of times which have now no parallel, and that there exists not the semblance of a necessity for the continuance of a system which was once a useful one.

JUDGE SENKLER.

I send you in tabular form a statement of the criminal business in this county, as disposed of from 1880 to this date—showing the results of the labours of twenty-two grand juries at the assizes and twenty-one at the general sessions, and comparing them with the business disposed of under the Speedy Trials Act.

The criminal business in this county is small, and I have some diffidence in expressing my opinion, but after seventeen years' experience I think the grand jury system is a great expense without adequate results. If abolished, the men now relieved as grand jurors would be available as petit jurors, and the result would be a better class of men for the latter juries, an end much to be desired.

The disposal of the criminal business in the county of Lanark, Ontario.

YEAR.	ASSIZES.		GENERAL SESSIONS.		THE SPEEDY TRIALS ACT.	
	Grand Jury Found.		Grand Jury Found		Elected to be Tried	
	True Bills.	No Bills.	True Bills.	No Bills.	By Judge.	By Jury.
1880	3				15	1
1881	4		1		6	
1882	4	1	2	2	12	1
1883	3	1	2		7	4
1884			1		14	1
1885	1				19	2
1886	2		3		6	4
1887			1		10	
1888	2		4		12	
1889			1		13	
1890 (part)		1	1		8	1

W. SENKLER,
County Judge, Lanark.

Perth, 25th November, 1890.

JUDGE DAVIS.

With the experience of an active life of over thirty years as crown attorney, crown prosecutor and judge, I have come to the conclusion that our grand jury system is cumbrous, inefficient and needlessly expensive.

At the court of general sessions of the peace for this county held in the month of June, 1889, the grand jury stated in their presentment to me as follows: In regard to the continuance of the present system of grand juries to which you have called our attention, we believe that a change is much needed, and we further believe that a system can be provided that will be quite as efficient and more satisfactory.

With respect to the question of expense I take the liberty of sending herewith a communication and memorandum from the county treasurer, showing the grand jury expenses for the year 1889—and a portion of the present year for this county. Without going further into particulars, I may say that I am strongly in favour of abolishing that system and substituting some other form.

Statement of the amounts paid grand jurors serving in the several courts of record in the county of Middlesex in and for the year 1889.

1889.			
Jan. 3.	Pay list at winter assizes.....	\$ 188	10
May 14.	do spring assizes.	322	50
June 7.	do June general session.	209	40
Sep. 12.	do fall assizes.....	175	00
Dec. 9.	do December general session.....	270	40
	Total payments.....	\$1,165	40

A. M. McEVOY,
Treasurer.

Office of the treasurer of the county of Middlesex,
London, 19th Nov., 1891.

JUDGE MCREA.

I am decidedly of opinion that the abolition of the grand jury system would be in the best interest of the public.

My chief objection to it is that it is a secret institution, and having to deal with matters of public concern individual jurors do not feel that responsibility to the public which they would feel if they were acting openly and in the light of day.

I think that with an intelligent magistracy (which ought to be on a par with grand jurors) and our system of county attorneys to take the responsibility of preferring indictments there is no fear of any person being put upon trial without cause.

As to their other functions of visiting gaols and other public institutions, I have never known their reports to be of much, if indeed of any, use. They are generally looked upon pretty much as a matter of course.

JUDGE ROBB.

I am in favour of the abolition of the grand jury system, believing that the change would tend to simplify and expedite the administration of criminal justice, would set free a desirable class of men for service on petit juries and would effect a considerable saving in expense. As against these advantages I know of no evils that could not be guarded against by proper legislation.

JUDGE BURNHAM.

In my opinion it would be an extremely dangerous experiment to abrogate the functions of grand juries in our courts. Our people, especially in Ontario, have been too long familiar with our present methods of administering criminal justice in our courts to desire to see the popular branch thereof removed and to have in its stead an appointed body.

No man can now be put on his trial without his consent till the grand inquest of the body of the county has sanctioned it. Neither can any man be denied the privilege of submitting a public grievance to that body and so having it brought before a court competent to deal with it.

And besides it gives the people a share in the administration of the laws, and by this means they are made acquainted with them, and are made part of the very institutions appointed for their administration and thus our courts become popularized.

It is an important thing to bring a body of the most intelligent and substantial men of the county together to take part in the administration of our laws in the public courts of the county. It educates them in such matters and they feel a greater responsibility in seeing to the enforcement of the laws as well as disseminating the knowledge thus acquired among the people.

I consider the place grand juries are given in our courts as wise and politic, and would hesitate long before even interfering with them except to improve.

The moment you take the prosecution of offenders from a body of men impartially chosen, and place it in the hands of a body officially appointed (it matters not how competent they may be), you jeopardize the popularity and consequently the usefulness of our courts.

I do not think the pecuniary side of the question is worthy of consideration. In Ontario, so far as I understand the sentiments of the people, the institution is much endeared to them and would be parted with very reluctantly, at any rate popular clamour in such a matter is not worth much.

 JUDGES KINGSMILL AND BARRETT.

We think the only reason for the continued existence of grand juries to be that they are some protection to the individual against the ignorance or malice of a justice of the peace.

Their usefulness when instituted was undoubted, but these days have passed and we now think they cost more than any benefit derived from them justifies and they have frequently at all events in this county in past years not found indictments on evidence which we think would have warranted it and because, as commonly believed, of undue influence. But we would not abolish them without providing some other protection to the individual against unfounded charges sent for trial by justices, and we think that, if anyone sent for trial be given the right to apply to a judge of either the high court of justice or a county judge on notice to the crown to be discharged on the ground that the depositions on which he has been committed are not sufficient to put him on his trial, this would be just as efficient a check on the justices of the peace as the grand jury and would be a simple and cheap way of disposing of a case improperly sent for trial and to meet the right which a grand jury has of calling fresh evidence, the judge should have the power to send the case back to the justice for further evidence at the request of the crown, if the judge were of opinion that the interests of justice would be served by so doing.

We are averse to the present power of grand juries to find a bill without the case having first been before a justice of the peace.

The substitution for a grand jury of any other person or persons such as crown counsel, county judge, sheriff, &c., &c., or two or more of them, would not meet with our approval because the prisoner is not represented and it would be no improvement on a grand jury except perhaps as to expenses.

The abolition of grand juries would also give to the petit juries a class of men whose services there would be of much greater use than a grand jury.

 JUDGE ELLIOTT.

I beg to state that, considering the doubtful justification of the magistracy in many places to dispose properly of the preliminary stages of criminal investigation, my opinion is that it is not desirable at present to dispense with the present grand jury system.

 JUDGE PRINGLE.

I do not doubt that criminal justice can be administered as effectually and satisfactorily without the aid of grand juries as it is now, and that the abolition of their functions will effect a great saving to the province and to the county.

 JUDGE WOOD.

If it is the intention of the minister in his proposed bill to leave the jurisdiction of the general sessions of the peace as it is, I am of opinion that as to *them*, grand juries may well be abolished.

In the assize courts the same would hold good in the great majority of cases; but in charges of treason, felony, alleged crimes arising out of, or, in connection with election contests, criminal libel, and perhaps some others, I should be slow to advocate the total abolition of the grand jury until satisfied that the body or tribunal (if any) intended to exercise some of its functions would be likely to command public confidence; and to see that the law should not be used as an instrument of oppression and persecution.

Doubtless a beneficial result arising from the abolition of the grand jury would be the improved character of what would then be *the* jury; and I think the reference frequently made to the good effect of visits by grand juries to gaols, and other

public institutions, and the dangers that would ensue if these acts were discontinued by reason of the abolition, can be met. No doubt these visits do good, both directly and indirectly, and may be continued by taking 13 or more or less from the panel either by special selections or indifferently and swearing them to make the enquiries and present the result. No doubt this or something better has been suggested, but I do not remember to have seen it.

Possibly this idea or some modification of it might be used for the furnishing of a *quasi*-grand jury in the few cases arising in which it might be thought useful or necessary—and who on the completion of their special work would fall back into the body of the panel. It would tend to satisfy those who hold in a modified form the views of the late Sir M. Cameron on the dangers of abolition, and would perhaps satisfy all but the most ardent advocates of abolition. The extra cost, which so exercises many, would at all events be at an end.

P. S.—I assume that in many cases, the crown prosecutor would require the fiat of some tribunal or judicial officer before presenting an indictment for *trial* before a jury.

MR. JUSTICE WOODS, CHATHAM.

Without entering into a detailed examination of the grounds of my conclusion, I may say that I have long been of the opinion that modern society in its new elements and agencies, is too advanced and complex for the faithful and efficient working of this branch of our criminal system. The considerations under which it found its usefulness no longer exist. Looking at the great extension of the elective principle, under our popular form of government, in legislative, municipal, educational and other branches, we find the vote-hunter and vote-holder very active and aggressive parties, who are not much concerned about the proper administration of justice and who do not scruple to intrude themselves anywhere in the hope of securing friends, supporters and voters. Again the lodges and brotherhoods are an element in every community that does not hesitate to interfere with the administration of justice in order to the immunity of its members, nor even are the clergy free from the reproach of too often being unmindful of what is due to society in the countenance they give to petitions for the release of criminals or the exercise of executive leniency towards them. I have no doubt that grand jurors are subjected to a heavy pressure from these classes and too often to the obstruction and perversion of justice. Then there is the large expense connected with bringing in four sets of grand jurors in the year, while the additional difficulty arises that in selecting the grand jurors you have so many good men from the petit jurors. Then looking at the very successful working of the inferior session, the police magistrates' courts and the provisions of 32 and 33 Vic., chap. 29, now chap. 174, s. 140, R.S.C., we see how largely the functions of the grand jury have been subordinated in criminal procedure.

Two things are desirable in a criminal prosecution: (1) That there should be as few persons connected with it as possible; (2) That local partialities, prejudices or influences, should be controlled by an outside supervision.

Having in view these considerations, I know no better way to secure the effectual prosecution of all offenders than by the appointment of police magistrates and strengthening the hands of the crown attorney and giving him supervision of every case coming up before the magistrates.

MR. JUSTICE MC'CARTHY.

I have the honour to acknowledge the receipt of your communication of the 29th October, and, in reply, beg to say I am of the opinion the time has arrived that action may be taken for abolishing the functions of grand juries, and my reasons are these: The very large number and intelligence of magistrates.

The right so frequently taken advantage of by prisoners of being tried before the county judges.

The expense. Other reasons might be assigned, but I understand the object of the circular is to obtain the opinion of each officer to whom it is addressed.

— — —

MR. JUSTICE MACKENZIE.

In my opinion the time has come when grand juries could be abolished without injury to anybody, or without danger to the liberty of the subject wherever the magistrates are intelligent and respectable, as they are in this country.

— — —

QUEBEC.

MR. CHIEF JUSTICE JOHNSON.

I have no difficulty in saying at once, that where there is a system of paid, professionally trained and competent police magistrates, the abolition of grand juries appears to me desirable, as respects ordinary felonies and misdemeanors; but I doubt whether in cases of a more or less political complexion such as seditious libels—the intervention of an entirely independent body could cease, without impairing the confidence of the people in the impartiality of the administration of the law.

I do not know, and am not called upon to give any opinion upon what may be proposed as a substitute for the grand jury; but if I may assume it to be the complaint and information after examination of the accused, as now practised in Montreal, I should feel satisfied if the system were restricted to the cities, and within the limit of non-political cases.

It occurs to me, however, that even in such cases, the substitution of the police magistrate for the grand jury beyond the limits of the cities would be undesirable, if not wholly impracticable, as the power of the federal parliament to regulate criminal procedure could not extend to the appointment of local magistrates, and those offices would therefore certainly be held by partizans, to the great danger and detriment of justice as well in public opinion as in its actual administration which is already beset with great difficulty and expense arising from the two languages in use in the province.

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MR. JUSTICE JETTÉ.

Although the judges of the superior court, in the province of Quebec, have criminal jurisdiction, the law (Sec. 2452, 2453, R. S. Q.) enacts that in the cities of Montreal and Quebec, when a judge of the court of Queen's bench is present and able to sit, the superior court judges are not bound to attend to that duty. In consequence of this disposition, I have never been called to sit in criminal cases, and therefore I do not feel warranted in offering any opinion on the question submitted.

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MR. JUSTICE PELLETIER.

In my opinion, the grand jury is, in our districts, a great protection for the repose of the individual and a guarantee for peace among neighbours. I do not hesitate to declare that without the grand jury many vexatious suits would be instituted, especially in matters which touch more or less closely political partizanship. To my own knowledge many frivolous accusations have been stopped by the grand jury. It is true that the keeping up of this body is costly; but until another institution is substituted for it,—some mode of preliminary trial which offers the same guarantees for the security of the person as for the property of Her Majesty's subjects,—it would be dangerous, in my opinion, to abolish it.

MR. JUSTICE WURTELE.

If in all the judicial districts of Quebec, we had able judges of the sessions and district Magistrates, such as Messrs. Desnoyers and Dugas in Montreal, Mr. Rioux in Sherbrooke and Mr. St. Julien in Aylmer and that the law required all cases to be referred to them for committal for trial, then I think that grand juries might be abolished in this province, but without such a safeguard I do not believe that their abolition would be in the public interest.

MR. JUSTICE PAGNUELO.

The inconveniences resulting from the system of grand juries are manifold, and the manner it is enforced adds to its inherent defects. Jurors lack that practical knowledge which a trained judicial officer or a judge possesses for the discovery of crimes, they are liable to surprises, and their feelings will often be appealed to and abused; in political, religious and racial trials, a condemnation is often next to impossible against a partisan, a co-religionist or a countryman, and criminals escape.

The one good feature of this system consists in this, that it gives to the accused as judges not adversaries or hardened officials exercising a daily routine business, but persons interested in his fate by a community of interest and of social position.

It is for this reason that juries are as a rule, found fault with, as giving criminals too many chances to escape; but it is of very rare occurrence that they be suspected of condemning innocent persons.

These considerations are true of petit as well as grand juries, but the secret and ex-parte proceedings before grand juries add considerably to the inconveniences of the jury system, especially where the standard of the jurors is low as it is in this province.

My impression is that cases are not sufficiently considered by grand jurors, and that the latter are too easily approached. Challenges being unknown and impossible, opinions are often forced before grand jurors meet together in their room.

Suspensions of that kind are by themselves a great drawback on this mode of administering justice.

One must also bear in mind that juries owe their existence in England to the desire of providing a guarantee against the undue influence which the then organisation of society and of the government, and former abuses by persons high in authority justified the people to fear from permanent judges or officers appointed by the crown; they were more of the nature of a political safeguard against government officials than against the errors to which mankind is heir.

Jurors are nowadays no longer a bulkwark of personal or political liberty, and they are generally dispensed with, in political trials, at times of great political agitation, but jurors are considered rather a safeguard against the indifference, negligence or partiality of officials.

The main office of grand jurors, as I view it, is now to control the decision of the magistrate, when a preliminary investigation has been held, or that of the judge or attorney general or his substitute when it is dispensed with, and to guard against persecutions from motives of revenge, bias or interest.

Such a check is necessary in this country; I hold very strong opinions on this head, and should grand jurors be abolished, a substitute for them will have to be provided.

It is not possible to leave it to any one of our justices of the peace, now counted by hundreds in this province, to say that any citizen will be submitted to the trouble, anxiety, expense and shame of a criminal trial, perhaps on the most trivial pretexts, or to allow a man to escape trial in the face of the most positive evidence, either through partisanship, favour or interest. Both of these contingencies must be carefully guarded against, as equally detrimental to society and personal security.

Therefore, I again ask, what substitute is suggested for grand juries? I am decidedly against officials appointed by local governments, as they would not be above

the ordinary substitutes of the attorney general, and it would be most unsafe to leave it in their hands.

In France, five judges of the court of appeal constitute a court of enquiry or *mise en accusation*, to whom the clerk of the court reads all the depositions taken by the *juge instructeur*, with the help of the substitute of the *procureur de la république*, as well as the answers given by the accused in his private examinations by the *juge instructeur* and any written defense that the accused may choose to offer. These judges are competent men, and exercise these functions alternately with the other members of the court of appeals. If this system, which was adopted in 1808, as a substitute to grand juries, and strongly favoured by Napoleon, and which is now pretty universally adopted all through Europe, were possible here, I would favour its adoption with some modification as to details.

A bill is now before the Quebec legislature, and will likely pass, for the appointment of the additional judges in the court of queen's bench, in order that two judges of said court may be appointed by the chief justice for holding criminal courts in all the districts of the province. Perhaps the resident judge, who by this new law is relieved of the duty of holding the criminal court in his district, could jointly with one or two of the judges of adjoining districts, constitute a court of enquiry and exercise hereafter the functions of grand juries, or some other mode equally reliable and safe could be devised out of the actual organization of our courts, such, for instance, as despatching two or three of the county judges in the Montreal division, and two or three in the Quebec division, to discharge the same duties for a year, etc. This I leave to you, sir, to say. Were all the judges of the superior court residing in three or four cities or towns, under the direction of our two chief justices, this idea might be more readily carried out than by the judges scattered all through the province as they are now.

A change of this importance deserves great consideration. Would the advantage derived from the new system be sufficient to justify its substitution to the old one? As it would have to be applied to all or nearly all the provinces, the difficulties to enforce the idea may yet be increased.

Not presuming to solve the problem, and apologizing for the length of this communication, I remain, &c.

MR. JUSTICE BROOKS.

That I have always considered the duties of the grand jury as most important, and that unless and until a most thorough and radical change in our system of administering the criminal law is made, the grand jury system should be retained not only in the interest of persons accused of crime, but of the public.

While our justices of the peace, as must necessarily be the case in a new country like this, are men who are not and who cannot be supposed to be skilled in the law, who have not in the great majority of cases even the benefit of a liberal education, and who have not the means of obtaining the services of any efficient or skilled clerks to aid them in the performance of their duties, it is exceedingly unsafe to place in their hands as a rule the power of *deciding* if a person charged before them with a crime should be placed in the dock to take his trial at a higher criminal court.

I have known in my experience of thirty years in criminal matters many cases where persons have been bound over to take their trial for alleged offences, particularly in matters involving questions of civil rights, against whom under the instruction from the judge presiding over the criminal court or on advice being sought from the representative of the attorney general, the grand jury have returned "no bills," which if returned as true bills into court would have placed innocent men upon their trial to their disgrace in the eye of the public, with great expense to the country and to no purpose.

On the other hand I have very seldom known of bills being thrown out by the grand jury when there was ground for returning true bills.

The expense to the country of the grand jury not being very considerable it adds to the dignity and importance of the criminal court.

They have from the presiding judge an exposition of the criminal law defining their duties and functions which ought to be instructive and of value.

The members of the grand jury, some of whom are usually justices of the peace, are instructed in their duties as such; and in cases which are to be brought before them involving questions of any difficulty they have the benefit of instruction from the court or advice from the crown counsel, which enables them in the public interest to decide either to find true bills or to reject bills laid before them, when trials would be fruitless and the persons accused should not be put to the disgrace of public trial.

In case of errors on their part in throwing out bills they can always be renewed before another court, and I have never yet seen any gross case of failure of justice by the erroneous judgment of the grand jury in rejecting bills laid before them.

I consider the grand jury system essential to the proper administration of criminal justice in the country. They have a right to present all matters which are connected with the administration of criminal law and they frequently avail themselves of that right, thus being an official medium of communication between the people and the executive in such matters, and I know of no other system which could be adopted which would enable us safely to dispense with their services, certainly not the substitution of any officer or officers, who, however skilled in legal matters, would take their place in deciding as to what persons should be put upon their trial for alleged criminal offences.

I look upon the functions of the grand jurors, who are supposed to be chosen from amongst the more intelligent men of the community, as most important and most useful, and believe that an institution which has worked satisfactorily for so many years should be retained. I know of no system which would work so satisfactorily, certainly not that of the *Procureur du Roi* and *Juge d'instruction* existing in France where the absence of a grand jury, *jury d'accusation*, has been so strongly felt and deplored and the evils of their system so forcibly pointed out by so many able French jurists.

I know of no system so effective as ours for the prevention of useless trials or which affords at the same time such safeguards for the innocent accused, and protection for society against the guilty.

JUDGE TESSIER.

In answer to your circular respecting the abolition of the grand jury, I must say, in my opinion, that it is better not to abolish it. Without entering upon long dissertations upon this subject, I will confine myself to saying:—That from my experience, there has been to my knowledge, no just cause for complaint against the working of the grand jury, at least, in the province of Quebec. That the grand jury is a guarantee for independence and impartiality, especially in a country like our own where a difference of origins and religions exists. Because the grand jury has the advantage of educating the people, and of making men from the highest class of citizens better understand the importance of a good administration of justice, by making them take part in its administration, and by bringing together these citizens taken from various localities of the judicial district. Because in making the grand jury to disappear, it will be necessary to put in its place a new piece of machinery, and those persons who will be entrusted with these new duties will be much more exposed to suspicion and unfriendly criticism than was the grand jury.

JUDGE TASCHEREAU.

As far as the large centres, such as Montreal, Quebec, &c., are concerned, I see no difficulty to be apprehended as a result of the abolition of the grand jury, the crown being always, as a rule, well represented, and the preliminary investigations

being properly conducted. In several districts, however, the same guarantees are far from existing, and the abolition of the grand jury would leave a blank which parliament would perhaps fill with a great deal of difficulty. However, this can be overcome with a proper system of preliminary examinations, under the responsibility and supervision of officials *ad hoc*.

As to the institution of grand juries in itself, it seems to me an evident failure, at least in this province.

MR. JUSTICE CASAULT.

I have the honour to state that I believe the finding by grand jury a very important protection against unfounded accusation and prosecution.

Political rancour runs, at times, so high, and the conduct of the criminal business of the crown may be confided to such inexperienced, or irresponsible, or even unscrupulous men that I would not recommend the dispensation of a procedure which may save innocent persons from the ignominy of standing at the bar on a trial for felony or of being subjected to a criminal prosecution for a misdemeanor.

I will, moreover, beg leave to add that grand juries and their reports are not, in my opinion, without benefit to themselves and utility to the public, and that the discharge of their duties generally tends to instruct and elevate characters by the honour which is found in being so importantly mixed with the administration of justice.

JUDGE TELLIER.

I have the honour to inform you that an experience of more than a quarter of a century, gained as much when acting as deputy clerk and crown attorney, as when a justice of the court of queen's bench, leads me to the holding of an opinion favourable to its preservation. The action of the grand jury may be useless in many cases, but in general it bears good fruit and renders undeniable service.

The criminal law is an instrument which is used often to secure other ends than that of the repression of crime and the protection of society; and for its application it is important that justice should be surrounded by all the elements fitted to make it equitable and efficient. The institution of the grand jury, owing to the number, the selection and the qualification of its members, offers all desirable guarantees.

The grand jurors selected from the most prominent men of the district, and coming from various localities, are obliged to examine and declare on the faith of their oath, if there is sufficient cause for placing on his trial the prisoner, in order that he may be able to answer the charges brought against him. Each judgment being for these occasional judges a grave and solemn action, which reckons for something in their life, they bring to its preparation all their attention, naturally, and all the caution they are capable of. The manner of their selection, their independence of authority, and the temporary character of their duties, make excellent judges of them.

Their participation in judicial proceedings is adapted to inspire confidence in the public and respect for justice, and to produce a salutary effect upon society. The cause for its existence makes itself felt especially in a country like ours where the criminal law is made by the federal power and is carried into effect by the provincial power. If I add to these few remarks the fact that the grand jury costs to the public treasury but a trifle, namely: the small cost for the summons of the men who compose it, I will say to you, "Sir, let us keep this tribunal." Such is my opinion, and I respectfully submit it to you.

JUDGE MATHIEU.

When a preliminary examination has taken place, and the justice of the peace or the police magistrate has found that there is matter for trial, I do not see why

the same question is submitted for the determination again of the grand jury, for the report of the grand jury is equivalent to the declaration that there is or is not matter sufficient to bring to trial.

It is true that one can bring a bill of indictment before the grand jury, before holding a preliminary examination, but in this case, one might supplement the indictment before the grand jury by declaring that, whenever there is no preliminary examination, the trial of the prisoner cannot be gone on with without the permission of the court being obtained.

I think that the preliminary examination, and, in default of such, the authorisation of the court, is a sufficient protection for the accused person, and with these provisions one cannot be subject to vexatious trials in law. I ought further to remark that this preliminary examination, and one held in secret before the grand jury, is subject to many inconveniences, and the right of presenting indictments to the grand jury is often abused,—whose good faith persons have often abused by allowing them to become acquainted with only enough to give the appearance of truth to the charge. Often the grand jury itself abuses the right it possesses to make representations, and its remarks do not always bear the stamp of wisdom. I am, then, of opinion that the grand jury might be abolished, after placing in the law, as I have stated, a safeguard such as I have indicated, or something similar, to prevent vexatious trials at law.

MR. JUSTICE CROSS.

I am disposed to give my advice strongly against the abolition of grand juries, not for any new reasons or anything I could add to what has been recognized for ages as to the institution being one highly venerated, it being a bulwark of liberty, a safeguard against oppression and a highly prized constitutional channel for the denunciation of abuses. Its composition inspires confidence, and its mistakes are for the most part easily remedied. It assures to the accused the same justice he might be called upon himself to deal out to his peers if acting as a grand juror. Like other human institutions, it has defects, among others, it is expensive and cumbersome and its conclusions are not always satisfactory; probably on that account it is too readily condemned by many who do not think deeply of its value as a whole, not reflecting that it is easier to pull down and destroy than it is to build up and restore. It is fair to enquire of these, what better substitute they would suggest to replace it. Were presentations made at the instance of a public officer only, his responsibility would be great, he would run the risk of becoming very unpopular and of incurring the hatred of the friends of every one denounced to the public tribunals. The presentations would naturally take the leaning of the temper of the accuser; if mildly disposed they might be weak, if severe the reverse, but this, if an evil at all, would be the least of evils. In the possession of a fixed or permanent power it is the tendency of the human mind to become arbitrary. In the hands of an unscrupulous official how readily might not such power become an instrument of tyranny and oppression which could be used to screen guilty favourites and with harshness to those who might have incurred his displeasure. Imagine the case of the executive power of the government desiring to harass its political opponents; no better machinery could be devised for the purpose than to invest their agents with the powers of a grand jury; in such a case the safeguard of the institution is invaluable.

I do not deny that the system may be susceptible of improvement, but I think those having the power would do well to reflect carefully before decreeing the abolition of the institution.

JUDGE CIMON.

It would be very extraordinary if the secular institution of grand juries did not meet with, especially in modern times when there is every tendency towards innovation, critics who would pray for its abolition.

I do not believe that the grand jurors are reproached with bringing useless or ill-founded charges ; this is so much in their favour. The reproaches come rather from a contrary cause, that is to say, that the grand jurors favour the prisoners. I admit that I have seen sometimes, but rarely, grand jurors allowing themselves to be easily approached by the friends of the accused persons, and in consequence I have known them returning the indictments as not true when the proof of guilt was doubtful. I saw, during the course of my practice as a lawyer, very near relatives of the prisoners form part of the grand jury ; I have even seen the father of the accused on the grand jury deliberating on the fate of his son. It need not be stated that the indictment in this case was returned as not a true bill. But let us not forget that in all these cases the evil is remediable. For the fact that the grand jury have returned the indictment as not a true bill, does not discharge the offender, and one can always submit anew the charge to other grand juries, and the crown may, if the course is preferable to attain the ends of justice, even obtain a change of venue. And it is evident that it is very certain that the crown, in these rare and extreme cases, will always conclude by obtaining a true bill if the evidence demands it.

So it happens that the reproaches cast upon this institution, although they may be serious, only are deserved in cases of great rarity, and do not entail an irreparable evil. And if provisions of law were adopted for better defining the causes for challenge of the grand jurors, and an effective procedure was laid down for this purpose, there would be avoided for the future anything to give cause to these unusual reproaches.

Now, if as a counterpoise to these unusual reproaches, we place the services rendered by the grand juries, it seems to me that we cannot hesitate for a moment as to the maintenance of this institution. Whatever may be said of them they serve still, at the present time, to protect the honour and the liberty of the subject against the crown. How many trivial charges having no foundation are rejected by the grand juries ? It is not the crown which would have protected the citizen against these charges, seeing that they are the representatives of the crown who bring them before the grand jurors. If the latter had not been in existence, they would have been laid immediately before the petty jurors. It is a matter of fact that a criminal trial is always dangerous, even though the prisoner be innocent.

I can say that at each criminal term at which I have presided, in the various rural districts, I was always fortunate in being able to reckon upon the assistance of the grand jurors, and it was with satisfaction that I saw them, at each of these terms, return as not true the indictments which were brought before them.

Doubtless grand juries have committed errors, as every human institution has and will do ; but they are probably less numerous than those of the petty juries, notwithstanding that the latter are more under the control and in the light of the court.

It would be with the most profound regret that I should see the institution of the grand jury abolished. I think that the people of the province of Quebec are of the same opinion ; for, recently, by the unanimous vote of their representatives in the legislature of Quebec, there was voted to each grand jurymen an indemnity, who formerly was obliged to give his services for nothing. This is far from endeavouring to reduce the expenditure caused by this institution. It is in high favour. It is an institution springing from the people, and it seems to me that they cling closely to it. Let us make the system perfect, but I do not think that it ought to be abolished.

MR. JUSTICE GILL.

I would entirely approve of a measure to that effect, provided of course some modification of the preliminary examination as actually practised before the justices of the peace be made, those justices not being as a rule in the rural districts of this province sufficiently educated and so free from prejudice as to always fulfil properly the office.

I would go further and abolish the trial by jury in a number of cases, viz., in all the offences which may now be tried before a police magistrate; that is, I would deprive in such cases the accused of his right of option which he now has of being tried by a jury or by the magistrate.

MR. JUSTICE CHARLAND.

I have the honour to submit respectfully that I see no inconvenience in abolishing the functions of grand juries in districts where preliminary investigation can be made by competent magistrates.

MR. JUSTICE BOURGEOIS.

I confess that my views upon that question are not *much* settled.

I have found occasionally that the functions of the grand juries were useless and that their secrecy lead to treacherous prosecutions and gross injustice.

In the rural districts of this province preliminary inquiries are often made by *unskilled* or prejudiced justices; in such cases, or where there has been no preliminary inquiry at all, the functions of the grand juries afford a kind of protection against oppressive and unjust prosecutions.

If the institution of the grand jury were abolished, I think the statute ought to provide that nobody is to be arraigned or put on his trial before petty *juries*, unless a preliminary investigation has been made in his presence, by a competent officer.

The codification of our criminal laws as suggested in the circular is very desirable.

MR. JUSTICE ANDREWS.

In my opinion it is inexpedient to abolish the functions of grand juries in relation to the administration of criminal justice. So far as I am aware, the chief if not only reasons usually given for such abolition are: the extra expense to the public and inconvenience to individuals, which would be thereby saved.

I think that both are at least counterbalanced by the benefit accruing to the individual jurors and to the community at large, through the education in matters connected with the administration of justice imparted to the jurors by the charge of the judge, and acquired by them during their consideration of the cases brought before them. This makes them, and other members of the community coming in contact with them, better fitted to worthily enjoy the benefits of free institutions. I think that the more directly the people are made to take their part, and to feel that they have their part, in the administration of justice, the more likely they will be to respect and obey the law.

I think this the more important in the province of Quebec, where so very few civil suits are tried by juries.

I think, also, the knowledge that the grand jury can make public presentment to the courts denouncing neglects of duty, abuses and wrongs, exercises a salutary restraining influence of importance.

A further reason of great weight with me against the abolition is that as grand juries have in the past stood in England between the oppressor and his intended victim, so it is far from impossible, or even improbable, that in this province they may not in the future be similarly useful.

I think it quite conceivable that in times of political excitement, with the power that the crown has by means of challenges without assigning cause to secure a petit jury of a particular political complexion, the grand jury might be the main safeguard against oppression and injustice.

If not out of place I may add that eminent writers in France deplore the present non-existence of the grand jury in that country—among them Béranger and Oudot, cited by Forsyth in his "History of Trial by Jury." pp. 351 and 352.

The demand for abolition alluded to by you in your circular may perhaps in part be accounted for by the fact that persons fond of change are prone to look only at the advantages they expect therefrom and wait till they obtained it to discover the evils it occasions.

MR. JUSTICE LABUE.

I have the honour to state that in my experience, particularly in the district of Rimouski, the grand jurors are too much exposed to outside influences. Besides, the summoning of the grand jurors is very expensive and out of proportion with the services rendered by them.

I am, therefore, of opinion that the abolition of grand juries would be desirable and in the public interest.

MR. JUSTICE LOBANGER.

In my opinion, the abolition of the functions of the grand juries in relation to the administration of criminal justice, would be in the public interest. My experience when attorney general as well as that which I have acquired at the bar and in the exercise of my judicial functions, has convinced me that this institution could be replaced with advantage by a proper system of preliminary investigations coupled with the appointment of permanent crown prosecutors.

MR. JUSTICE LYNCH.

My experience as a judge is of too short duration to permit of my expressing any opinion in that capacity; that while at the bar I never saw anything in this district which would warrant the conclusion that the utility of the grand jury system had ceased. I know of nothing which would satisfactorily replace it; and I believe its abolishment would be a fatal mistake. Fame and intelligence have somewhat improved the institution; and the public have come to respect it and to regard it as a necessary part of the criminal justice machinery. Possibly the manner of composing it might be improved, so that its membership would be made up of the more intelligent part of the community.

NOVA SCOTIA.

HON. J. W. LONGLEY, ATTORNEY GENERAL.

I have given the matter as full consideration as possible and viewed it in relation to the existing condition of affairs in this province. The jury system, both grand and petit, has been from time immemorial a part of the institutions of the country, dating far anterior to the colonial period, and having always been incorporated into our system of jurisprudence. Any change looking to the abolition of any part of this system will naturally meet with prejudice from many minds instinctively conservative in their tendencies. But the vital question in the consideration now before us is the practical utility of either or both of these systems.

In Nova Scotia prior to the introduction of the system of county incorporation, when the municipal affairs of each county were controlled by the magistrates sitting at quarter sessions, no expenditure could be incurred unless upon the recommendation of the grand jury. Thus this body exercised a function quite disconnected with the administration of criminal justice. For eleven years past Nova Scotia has enjoyed municipal government by elected councillors and, therefore, this branch of the functions of grand juries has become obsolete.

The jury system in all British countries has been gradually undergoing a change for some time past. Once, no cause could be tried in the supreme court except

before a judge and jury. The cumbersome and unsatisfactory character of this adjudication by unskilled men on points of a strictly technical character soon became apparent, and juries were dispensed with except in a special class of cases in which it was deemed inconvenient for the judge to pass upon questions of fraud or to fix damages in cases of torts. No inconvenience, so far as I am aware of, resulted from this sweeping abolition of the functions of petit juries in civil causes. Indeed, it is the universal testimony of the bench and bar alike in this province that the administration of justice has been vastly facilitated by the change.

Originally all criminal matters, except those of the most petty character, were adjudicated in this province by the supreme court. In all these cases it was necessary, first, to obtain an indictment by a grand jury and, afterwards, a conviction by a petit jury after trial. It is now a little more than a year since the Speedy Trials Act came into operation in Nova Scotia, and the instant result of that act was that a majority of all criminal cases are now tried before the county judges by the consent of the persons themselves. In all these cases there is no grand jury, and under the existing condition of things in Nova Scotia the grand jury in reality passes upon but a percentage of the cases of alleged crime. The favourite argument for the maintenance of the system of grand juries has been that it was unfair to the citizen that he should be exposed to the odium of sitting in a criminal box under a charge of felony if there was not a fair and reasonable case against him. Speaking from my own experience in such matters in Nova Scotia, I have no hesitation in stating that it is but rarely that the exercise of the functions of grand juries have been of much value in this regard. In the first place as a rule justices of the peace do not send up for trial cases which are the result of personal malignity. The tendency of justices is to lean to the side of leniency rather than severity in the administration of criminal justice. So far as my experience goes grand juries have repeatedly failed to find bills against persons, not from lack of abundant evidence to justify and require the putting of the accused upon trial, but from considerations of a personal and unsatisfactory character. I can only call to mind some rare instances in which the interposition of a grand jury has prevented an innocent person from being exposed to the humiliation of a public trial.

In most cases when a party is charged with crime it is his interest to court a public trial. Even when innocent his innocence can be best vindicated after a public investigation. It very often happens that with a cloud of suspicious circumstances surrounding the case the public will not accept the bald statement of "No bill" from a grand jury as a vindication. Since I have held the office of attorney general application has been made to me on several occasions to exercise the power, inherent to the office, of filing a *nolle prosequi*. I was perfectly satisfied in most of these cases that the party was completely innocent and that the commitment was not justified by the evidence or by any circumstances surrounding the case. Nevertheless, I have always felt that it would be the greatest injustice to the accused to adopt any such course. It would fail to satisfy the public, and it would leave the enemies of the accused in a position to say that, if there had not been a special interposition, a conviction would have been obtained. The event has always shown the correctness of this view, because the instant the matter came before a court for public investigation its bogus character was at once demonstrated and the vindication was complete.

Referring to the operation of the Speedy Trials Act once more, it may be stated that I have known instances of parties consenting to the trial under this act who were, as far as can be judged, innocent of the charge, but who sought the earliest opportunity of a public vindication. This leads me to conclude that individuals in this country do not place a priceless value upon that institution which is supposed to guard them from the horrors of a public investigation. When once a charge of crime is preferred against a man supported by evidence, either of a direct or circumstantial character, the finger of suspicion is at once pointed toward him, and this can be best removed by an investigation of the most public character.

To sum up, therefore, I would say that in Nova Scotia at the present time the grand jury is not a vitally important factor in the administration of criminal justice.

The question may be asked, who or what is to take its place, and this is not so easy to solve. There is one function of the grand jury which has not been referred to, and that is its general power of investigating all matters pertaining to the well-being of the county and presenting before the court any matters which call for public inquiry. It is the instrument by which a presiding judge, becoming aware of any prevalent evil in the community, can bring about some practical action. It is a sort of a tribunal to which the oppressed or wronged can turn for relief, and it is an independent body capable of bringing to light any form of public evil prevailing in the municipality. In this regard there will undoubtedly be inconveniences in its abolition. It is but fair to say that, in the main, grand juries in the province of Nova Scotia are composed of independent and fearless men, who have both the intelligence and moral courage to discharge their duties to individuals and to the public.

With these general statements, and with the views before presented, I prefer to leave the matter for the judgment of the department of justice and the parliament of Canada without giving any special opinion as to the general question of the maintenance or abolition of the functions of grand juries in relation to the administration of criminal justice.

HON. MR. JUSTICE RITCHIE.

In ordinary criminal cases where depositions have been taken this might be done by requiring the prosecuting officer to submit the depositions to a judge and obtain his authority to file an indictment, or written charge, and proceed to trial. But there is a class of subjects within the province of the grand jury with which it would be more difficult to deal, viz., presentments in relation to public rights and interests and indictments against municipalities, corporations, and other bodies, for neglect of duty, &c.

Grand juries are representative and responsible bodies, well qualified to deal with such subjects, and to initiate proceedings if requisite, and to abolish them would, I think, remove a wholesome check upon the actions of municipal and other bodies which now exists.

If such proceedings could be effectively initiated by a private individual it might enable a person, maliciously disposed, to do a great amount of mischief if he incurred no personal responsibility, while to ask the person proceeding to assume the responsibility of an action taken on behalf of and in the interests of the public would in most cases prevent any action being taken at all.

Grand juries too can hear evidence and find an indictment, although the accused has never been arrested nor any deposition taken, a practice often followed, and in many cases clearly in furtherance of the administration of justice.

If in criminal prosecutions where depositions have been taken and the accused remanded for trial the order of a judge were substituted for the finding of the grand jury, it would be unnecessary for them to meet so frequently, and in this province it would be quite sufficient for them to meet once a year.

My views are to some extent affected by the manner in which criminal prosecutions are conducted here, and the mode of appointing and remunerating the prosecuting officers, who are paid for every indictment found and for every trial. And there have been several cases in which the committing justice was appointed to prosecute, and did prosecute the criminals that he himself remanded for trial.

HON. MR. JUSTICE TOWNSHEND.

I have seen no reason why, in the public interests or for the now efficient administration of the law, those bodies should be done away with. While it may be

said the Speedy Trials Act has made it necessary in many crimes and misdemeanors to have a formal indictment found before proceeding to trial, yet the accused in such cases voluntarily renounces the right he would ordinarily have, and questions may yet arise how far this act will prove in all cases satisfactory. If grand juries be now abolished the accused will be deprived of a right hitherto enjoyed in all countries where British law has been followed and administered, whether he will or not. Should this protection, such as it is, be taken away without very strong reasons rendering it necessary in the public interest or the more effectual administration of justice? It is perhaps difficult to estimate just what the value of this protection is at the present day, but we do know in past times the grand juries played an important part in preventing oppressive prosecutions. I am disposed to believe they now often prevent frivolous and vindictive charges being made, which would expose those accused to an annoyance and expense if proceeded with. Grand juries having for so many ages been an integral part of the administration of criminal justice, and being yet retained both in England and in the United States, seem to me to be strong reasons against such a radical change as their abolition.

Not knowing what procedure it is proposed should take the place of grand juries, I am not in a position to consider its merits. Assuming that a somewhat similar mode is to be adopted to that used under the Speedy Trials Act, I think it open to some grave objections which equally apply to that procedure. The prosecution proceeds on the deposition and committal by the justice of the peace before whom taken. As a rule in this province at least these depositions are very badly and improperly taken, both as to the evidence and legal form. Often it cannot be gathered from them what crime is imputed to the accused, or the evidence is so badly taken that on a mere examination of the depositions it does not appear to be made out, whereas in fact all the constituents of the crime were proved, or existed, but owing to the ignorance of the magistrate the essential parts are omitted. If the judge was to decide whether the prosecution is to go on or not, on what material should he form his opinion? Is he to adopt the statement of the prosecuting officer, or is a man to be put on his trial simply because an accusation is made? A new class of magistrates must be charged with such matters, and the jurisdiction generally given to all appointed should be taken away if this system is to be adopted. If the grand jury is retained, any such defects as above pointed out can be remedied under instructions from the court.

If it is contemplated placing the responsibility of carrying on a prosecution or not in the hands of the prosecuting counsel in each county, or in the hands of the attorney general of each province, which means practically the same thing, I think it still more objectionable and dangerous. In the first place, speaking for this province, in many cases the prosecuting counsel are not competent men, and are now generally appointed as a reward for political services without reference to fitness. They have a direct intent in instigating and pushing on prosecutions for the sake of the fees, and experience has shewn that this is actually the case. On the other hand, this power can be and is used not only for oppressive purposes but is frequently perverted to shield friends from prosecution who have been guilty of breach of the criminal law. Whether so far it has, or in the future may be used for blackmailing purposes, I am unable to say, but it is open to that objection. While the grand jury are a constituent part of the administration of criminal law a great obstacle is presented to evils of the character above pointed out. Under the instructions of the judge it rarely can happen, or does happen that schemes of this kind can be successfully carried out. Then, again, I think it a valuable aid to the administration of justice that any person has the right to prefer before a grand jury charges which if properly substantiated may be investigated before the court. I have known cases where the magistrates have refused to commit the party for trial, but for which the grand jury have preferred an indictment and the party accused has been found guilty. There are also cases, which come to the notice of the court, or on which the grand jury of their own motion take action, which make it necessary that this institution should be retained.

The question of expense to the counties is surely of too trivial a character to weigh against their usefulness. In this province it rarely exceeds \$100 each term, which would make the total in the year \$200. It is sometimes said that grand juries impede the punishment of crime by refusing to find bills when the facts warrant it. Doubtless this does occasionally occur, but it is certainly the exception. In my experience, they generally exhibit a disposition to carry out the direction of the presiding judge.

Having carefully considered the whole question, I am clearly of opinion that there are no sufficient reasons for doing away with the grand juries, and I see many evils which may, and probably will result from such a change. There are no doubt many other reasons against it to which I have not adverted, and which will probably be referred to by others more competent than myself to speak on the subject.

JUDGE JOHNSTON.

Some time since I formed the opinion that, in the present state of society, grand juries are not required to the due administration of justice, and are not essential to the legitimate security of the party charged, but that his interests would be sufficiently guarded and subserved were he to be tried on the commitment of the committing magistrate, who in fact exercises under our system to a large extent the functions of a grand jury in criminal charges.

Perhaps one limitation or exception to the above might be suggested. When political offences against the government, as treason, &c., or charges of political libels are laid, it might not be inappropriate to call upon a grand jury to stand between the accused and the government, and so to guard against any undue influence being exercised by the crown, who have in their hands the appointments to the magistracy.

JUDGE DESBRISAY.

I have read and carefully considered the deliverances of able men published from time to time, on the subject referred to by you. I am convinced by their arguments, and by observation, that the time has fully arrived when grand juries may well be dispensed with in the administration of criminal justice.

The use of such a jury involves unnecessary delay and expense. All the steps which precede trial in a criminal court could be as well taken before the time now fixed for the assembling of the grand jury, and if there were not sufficient evidence to place on trial the party accused, he would so much the sooner resume, with innocence established, his true position among his fellow men.

All proceedings up to, and including prosecutions, should be taken by an officer appointed for each county, or given districts, a man of responsibility, knowledge, and known integrity. His whole attention should be devoted to the duties so devolving upon him, and he should be paid a suitable salary. The money so expended would be much more than saved in the increased security against wrong-doing, which must result from such appointments.

Allow me in this connection, to refer to the office of justice of the peace. This office is very often taken as a means of livelihood, after failure in other pursuits. Poverty, and want of principle together make the officer unable to withstand the temptations thrown in his way, and he not infrequently goes so far as to advertise for *business*, fines imposed are retained, and offences of a serious nature are *settled*, by the payment of money all round, and ere long the offender is out of the county free to repeat elsewhere the offence for which he was here charged.

I think there are reasons sufficient for taking from justices of the peace the duties now imposed by statute in criminal matters, and placing them all in the hands of an officer such as I have above suggested.

MR. JUSTICE SAVARY.

I have long considered the intervention of a grand jury, after an accused person has been committed for trial by a competent court of preliminary inquiry, quite superfluous and unnecessary, and therefore an evil that should be abolished.

NEW BRUNSWICK.

HON. MR. JUSTICE KING.

I think it objectionable that persons should be put upon trial on criminal charges upon the opinion of a committing magistrate, and unless adequate provision for liberty were made, I should favor the retention of the grand jury. Of the 104 bills last submitted at the St. John circuit court, thirteen, or one-eighth, were ignored by the grand jury. Of the last 52 in the county court of St. John, nine, or about one-sixth, were ignored.

Amongst obvious advantages of the system is the bringing of many persons into practical connection with the administration of criminal law.

Apart from the burden it imposes (which, however, in this province is lightly borne), I see but little practical advantage in doing away with the system.

JUDGE WILKINSON.

As a means of expressing my views, I beg to observe that the conditions under which the grand jury system exists in the different provinces vary in some important particulars, and these differences may well induce differing opinions.

I do not think the jurors themselves find the attendance onerous or irksome (one day being sufficient for the attendance at any term or court for which they are summoned) but rather as an honorary position aiding in the general administration of the criminal business—a view I constantly endeavour to set before them. And as I have already said, their attendance causes no public expense to the province or county. And this being so, I further think that the exercise of their functions are incidentally and indirectly very helpful to the court and in the general administration of the criminal business, and promotes confidence and satisfaction in the general public and makes it impossible for any person charged with crime to say truly that he has been hardly and unfairly used, or that our system does not provide in the fullest and most considerate manner for the fairest and most impartial trial of those charged with crime. It is not simply the crown or mere individual authority that seems to determine everything, but it is the general public themselves taking part in, and as it were endorsing, the whole proceedings from the start.

As regards my own judicial experience as to the salutary and effective working of the system in the localities where I have gained this experience during the last ten years, I beg to say that I do not think there has been one instance of a bill found or ignored, of which I did not cordially approve. And I have always found the grand juries to be docile, and ever ready to be in touch and accord with the views of the judge; and have found their conclusions practical and sensible.

And even having regard to an extended professional experience of forty years, I remember but one case (a revenue case) in which I thought the grand jury forgot their functions, and failed in their duty. But allowing my conclusions to be correct in this instance, the question still is, if such an exceptional case is not likely to arise under any system?

It goes, however, without saying, that the retention of the grand jury system is not so important now, when both the rights of the crown and the subject are so well and thoroughly understood and defined; when more reasonable distinctions are made in the nature and punishment of crime; when the judicial tenure of office is permanent and protected by safeguards—than in other days, when confusi on and uncer-

tainty existed more or less in regard to the rights of the crown and of the subject, and the relative rights of subjects between themselves; when punishment of the subject for crime, and sometimes where there was little in the nature of crime, were too often arbitrary, cruel, sanguinary and the judges themselves, in the turbulent, stirring times referred to, were too often found to be pliant time-servers, and cruel partizan oppressors.

In one respect I think there might be an improvement on our present system as regards extraordinary cases, which, however, only occasionally occur, namely, when rumours exist of serious crime having been committed. At present there seems to be no one whose special and particular statutable duty it is to ferret out the foundation for such rumours, and if necessary to get the charge initiated and proceedings taken. At present the matter is left to voluntary complaint. It may be mere suspicion, and no private person likes to take the initiative in such a case. And even when the grounds are more apparent, complaint may not be made by private individuals for many reasons, as fear, indifference, partiality, pecuniary interest. There is such a case as I refer to now within my criminal jurisdiction, and I am glad to say that now, though two or three months after the occurrence and rumours, the matter is receiving attention. But whether the delay, owing probably to the want I have mentioned, will interfere with the arrest of the parties, or with the proof of the crime, if they are guilty, I am, of course, unable to say. But in view of the contemplated general legislative dealing with the criminal law by the minister of justice in the near future, I thought I might with propriety refer to cases of this class, that if thought worthy and capable of being dealt with, the department of justice would make suitable provision to meet such cases.

JUDGE STEADMAN.

I beg to say, judging from an experience of twenty-three years, that I am decidedly of opinion that it would be in the public interest if the services of the grand jury in the administration of criminal justice were dispensed with, and would relieve the people of the country district from the performance of a labour which they have long felt to be an unnecessary burthen upon them.

JUDGE LANDRY.

My experience as judge is yet too limited to venture an opinion based upon such experience. But long before being honoured with my present possession I had concluded that the functions of grand juries, while in most instances exercised with fidelity and sincerity, did not contribute in any degree to the proper administration of justice. I am, therefore, of opinion that their abolishment would make the administration of criminal justice less expensive, less cumbersome, more speedy, and in many instances less likely to miscarry.

JUDGE WEDDERBURN.

Several years ago I reached the conclusion that, in this province, the system of grand juries "has outlived its usefulness," and that opinion has been confirmed and emphasized by the passage of The Speedy Trials Act by the parliament of Canada.

JUDGE WATTERS.

I beg to say that in my opinion such abolition would not be in the public interest.

The grand jury is generally selected from amongst the most intelligent, experienced and impartial members of the community and is intended as much for

the protection of the innocent as to secure the punishment of the guilty,—its most valuable feature is that no man can be put upon trial unless specially presented by that body, uninfluenced by the surmises, hearsays or local prejudices which may exist, and more or less affect the action of a local committing magistrate; the grand jury will subject no man to the odium of a public trial unless they are satisfied from the evidence alone and such a degree of evidence as in the absence of explanatory circumstances would in their judgment warrant a conviction.

I have known to my own knowledge and from my own experience in criminal courts of several cases where grand juries have repudiated charges as unfounded brought against individuals who had been committed for trial by stipendiary as well as by other magistrates.

PRINCE EDWARD ISLAND.

CHIEF JUSTICE SULLIVAN.

I am not aware on what grounds it is urged that the abolition of grand juries would be in the public interest, and my experience in the administration of criminal justice does not lead me to that conclusion.

In Prince Edward Island the grand juries cost the public nothing, and, apart from their other functions, they exercise a salutary influence over the management of public institutions, such as jails, asylums, &c. In the administration of criminal justice they frequently bring to public notice matters which otherwise might not be regarded, and they are a great security against malicious prosecutions.

I think it would be unadvisable to abolish them.

MR. JUSTICE PETERS.

In my own opinion the effect of their abolition would be, on the one hand, to destroy an index to crimes, and, on the other, to deprive the subject of a great protection against frivolous and unjust accusations. I need not remark that the duty of a grand jury is not confined to the investigation of charges for crimes which may be brought before them at the sittings of a court. But their duty is also to visit public institutions such as prisons, lunatic asylums, &c., to examine into the manner in which the officers and keepers of such institutions perform their several functions, and to examine the sanitary condition of such institutions and present their report thereon to the court.

In my long experience as a judge I have met with many cases in which the exercise of this visitorial power of the grand jury has been the means of exposing great dereliction of public duty. One notable case occurred some years ago in this island.

The trustees or directors as well as the physician of a lunatic asylum had grossly neglected their duty. The grand jury, in visiting the institution and examining into the state of the patients and the manner in which they were treated, discovered a state of things so disgusting and cruel that the very reading of the presentment filled one's mind with horror and indignation. This had been going on for some time and likely would have continued but for the intervention of the grand jury.

An able writer observes that the right of a man to demand that he shall not be put to trial upon a criminal charge unless presented by a grand jury has undoubtedly saved many innocent persons from *iniquitous* prosecution.

The 5th amendment to the constitution of the United States provides that no person shall be held to answer for a capital or other infamous crime except on a presentment or indictment of a grand jury. In some states it appears to be abolished. But suppose the grand jury to be abolished, what kind of proemial body are you to substitute for it? Is every one to be at liberty to file an information in the supreme

court charging any crime he pleases against an individual in the same manner as he would file a declaration for debt? If so the prothonotary's office will be the receptacle of many false and scandalous charges, which, if previously investigated by a grand jury, would never have seen the light. If not, what advantage is to be gained by substituting a new body to perform the same duties that were performed by the one abolished?

MR. JUSTICE HENSLEY.

Speaking from an experience of now more than twenty-one years upon the bench, I am decidedly of opinion that it would be very undesirable to pass any measure having in view the abolition of grand juries. I have always regarded and found that body a great protection and safeguard to the public and to those members of it who from time to time unfortunately become the objects of criminal proceedings. Many and many a time has it intervened to prevent the too hasty placing on open and public trial of accused parties and saved innocent individuals from unmerited public obloquy, anxiety and expense. I fail to call to mind any occasion here in Prince Edward Island in which the functions of grand jurymen have been exercised otherwise than with propriety.

I think it would be a grave error to abolish that ancient body whose functions and powers and the mode of fulfilling them have been safely settled and clearly defined by the decisions of ages.

In my opinion I think it would be hard to find an efficient substitute for it, and I trust I may be excused if I add that I also think it would be dangerous to attempt to do so.

JUDGE KELLY.

In my opinion it would be desirable, in the public interests, to abolish the functions of grand juries in relation to the administration of criminal justice.

Such functions might, I venture to suggest, be conveniently transferred to district and county court justices, before whom indictments and presentments could be submitted, and at briefer intervals of time than the present procedure permits, and thus when one is falsely accused, a speedy removal of the accusation would be accomplished.

MANITOBA.

HON. JOS. MARTIN, ATTORNEY GENERAL.

I am very strongly in favour of entirely abolishing grand juries. It does not appear to me that they serve any useful purpose. In fact, my experience has been that the only occasions which they make themselves felt at all is where they burk the administration of justice by throwing out bills. They are a very heavy expense indeed, and I have no hesitation whatever in recommending that they should be entirely abolished. As to this I express also the views of the other members of the government.

JUDGE ARDAGH.

I have the honour to state that as county court judges in this province are not brought into immediate contact with grand juries (having no criminal jurisdiction except under the Speedy Trials Act), I am not in a position to give any opinion on the subject based upon personal judicial knowledge or experience of the working of the system.

I can therefore only say, in general terms, that I have long been of the opinion that the grand jury system had outlived its usefulness in connection with the administration of criminal justice, and that a more suitable and economical way of accomplishing the main purpose which originally called it into existence might and should be devised and adopted.

My connection with the law as a practitioner of many years' standing, as an ex-officio magistrate for some time, and a short but suggestive experience in this province as deputy attorney general having charge of criminal matters, may be referred to as having led to and confirmed the conclusion I have given above.

I may also refer to the arguments reported in the Senate debates on the question favouring such a change in connection with our criminal jurisprudence, especially as put forward by the Honourable Mr. Gowan, as being in accord with the conclusions derived from a personal experience which is not wholly theoretical.

JUDGE BAIN.

I am inclined to think that it is not necessary now that the cases of persons committed for trial for criminal offences should be re-investigated before they are put on trial before a common jury. The great majority of persons committed to gaol for trial or committed for offences that can be tried by a judge under the Speedy Trials Act, and if anyone is committed without cause, he will, or at all events can, elect to be tried speedily, and will be acquitted and discharged. It seldom happens, I think, that magistrates or justices commit anyone for trial for such offences as are not triable speedily, unless there is evidence that, at all events, raises a suspicion against the accused; and should an innocent man be committed, his character will be more fully and satisfactorily vindicated by the trial and acquittal by a common jury, than by a secret investigation before a grand jury. Still it may happen that justices will make commitments on evidence that will not warrant them in so doing; and if grand juries are to be done away with, it would be necessary that a means should be provided by which persons so committed could be discharged without having to wait for, and without having to prepare for a trial. Such a discharge should be by a judicial act, and I would not like to see any single official entrusted with the power of deciding privately, and on his own responsibility whether one who had been committed for trial should be tried or not. Provision would also have to be made for preferring indictments in proper cases against persons who had not been committed for trial.

I think the secrecy of the investigation before the grand jury cannot well be defended; and if the investigations such as they now make were made publicly, they would soon be felt to be superfluous. If their investigations were made public ones, they would necessarily tend to become regular trials.

On the other hand my experience has been that grand juries perform their duties impartially and intelligently, and it seldom happens that a miscarriage or failure of justice can be attributed to them, and I think the most that can be said of the system is that it is expensive and superfluous. But I think there is a decided public advantage in having a number of men such as compose grand juries periodically called upon, and associated with the judges, as it were, to take part in administering and enforcing the laws. This must tend to make the people feel that the laws are not administered by an official class apart from themselves, but that they have a direct part in their administration, and I think the result is that a readier respect is paid both to the laws and to the courts.

I may add that at two assizes which I have recently held, the grand juries in their presentments expressed the opinion that it would be unwise to abolish the institution.

JUDGE RYAN.

In my opinion the grand jury has long survived its usefulness. It is a source of very considerable expense for which the community receives no adequate return, and so far from facilitating the administration of criminal justice, it is on the contrary frequently made the vehicle of injustice and spite by shielding from justice influential offenders, and by incriminating innocent parties.

BRITISH COLUMBIA.

HON. THEO. DAVIE, ATTORNEY GENERAL.

In reply, I wish to state that my opinion is strongly in favour of the abolition of grand juries, as I think that the utility of that body, however desirable in former times and under other conditions, has now, so far as Canada and particularly this province is concerned, wholly ceased. The summoning them occupies public time and when they are brought from a distance, as often happens in this province, causes the waste of public money to say nothing of private inconveniences and loss of time. Moreover, in sparsely-populated districts, especially considering the many exemptions from jury duty and disqualifications provided by the Jurors Act, the summoning of grand juries materially reduces the roll from which common juries can be drawn, as in many parts of the province both grand and petit jurors have to be selected from the same class.

Whilst expressing myself in favour of the abolition of grand juries, I think it but right to guard myself against being understood as voicing the opinion of anyone but myself. I am aware that many public men in the province, and amongst them some of my colleagues in the government, hold different views. This fact I ascertained about a year or two ago, when, before accepting the office of attorney general, but as a private member of the legislative assembly, I moved in the direction now advocated by me, and on that occasion the resolution offered by me was voted down by a considerable majority.

It may not be considered out of place if I express a doubt which exists in my mind as to whether, if the contemplated abolition of grand juries is to be carried into effect, the legislation should proceed from the dominion parliament or from the provincial legislature. Criminal law and procedure belongs to the former, the constitution, organization and maintenance of courts of criminal jurisdiction to the latter. Doubtless the methods to be employed in consequence of the proposed abolition of grand juries is a matter relating to criminal procedure, but bearing in mind the language of Lord Brougham in O'Connell's case, 11 Clark & Tinnelly's reports, p. 347, and the judgment in O'Rourke's case, 1 Ont. p. 473, the question whether the functions of a grand jury are not to be called into requisition in a criminal case seems to be a matter pertaining more to the constitution of the court than of simple criminal procedure.

In this view of the matter it would, I think, be unsafe to move in the proposed direction, except by joint legislation, or possibly dominion legislation might be introduced to take effect in such provinces only as shall adopt legislation upon the subject. Such a plan is, I think, practically the course adopted in the case of the Speedy Trials Act, which applies to some provinces and not to others.

CHIEF JUSTICE SIR M. B. BEGBIE.

The functions of a grand jury in relation to criminal investigations may be considered: I. With reference to indictments submitted to them against offenders whom a magistrate or justices have already committed for trial at the assizes. II. With reference to presentments made by the grand jury: (1) Where a magistrate has refused to commit, or (2) where the aggrieved party has laid no information before a magistrate, or (3) where the matter complained of is in the nature of public nuisance and no information has been laid.

I. As regards the first head (which probably includes all matters usually taken into consideration by grand juries in older and wealthier communities, for instance, at an assize in London), I have always found that any bill thrown out by a grand jury related to charges which, so far as I can judge from the depositions, ought not to have been sent to the assizes at all. By throwing out such a bill, there is a distinct gain of expense and the time which would be otherwise occupied before a petit jury. I always request the grand jury to turn their attention first to one or two of the simpler cases, and return them at once into court, so as to get them before the petit jury; pending the trial of these, the grand jury pursue their investigations of the more intricate cases. There is thus scarcely an hour lost, assuming the grand jury to return a true bill in every case. It is not the grand jury that ever causes a failure of justice. And I think, under this head, that a grand jury is sometimes useful, and though sometimes unnecessary, never obstructive or harmful.

II (1). Where an indictment is brought before a grand jury against an offender whom a magistrate has refused to commit, if the complainant be dissatisfied, he might in some cases perhaps apply for a mandamus or some such remedy; but this is expensive and unfamiliar, and in the eyes of most complainants a much better sort of appeal is to go before a grand jury and see whether they will endorse his complaint. And, in the peculiar circumstances of this province, I should be sorry to see him deprived of this right. It is very rarely exercised. The abolition would probably be a sentimental grievance, the most troublesome of any.

II (2). But the absence of a commitment may be due to quite another cause than the refusal of the magistrate. The aggrieved party may have abstained from laying, or may withdraw, his information, either through some accommodation or intimidation, or mere reluctance to incur trouble or responsibility or ill-will, and a felony may have been committed, if it is important in the interest of society to investigate and punish, and which the grand jury can present with force and effect. In an extensive and sparsely-populated country, such as many districts of this province, it is wonderful how well the few police officers manage to restrain crime and to apprehend offenders. And I think the institution of grand juries tends both to strengthen their hands and to accentuate their activity.

Fortunately, crime is rare in this province. It often happens there are no criminal cases, or but a few, at the assizes. Apart from the known integrity and vigilance of the police, the periodical assembling of a grand jury is an additional guarantee and security that the magistrates everywhere duly perform their very responsible duties, and that the bare calendar and empty jail truly represent the state of crime in the district.

II (3). There is another class of matters in which the power of the grand jury has been by recent legislation somewhat curtailed, viz., the presentment of public nuisances, piggeries and slaughter-houses in towns and settlements, disorderly houses and the like. Here again, perhaps, this province stands in a somewhat different position from older and more settled communities. It would greatly interfere with the efficiency of our constabulary if they came at all to be looked upon in any degree as spies. Admitted everywhere they are in a position to acquire much valuable information as to the habits and associates of the dangerous classes, which they are doubtless compellable to disclose, and which they do disclose with good effect when called upon. But they would lose much of the popularity which they enjoy, and consequently much of their efficiency, if they were suspected of ferreting out secrets, of getting up cases and then volunteering the results of the espionage and laying information against those with whom they have mixed unsuspected. The grand jury labour under no such disability, and I have frequently found that the mere presentment of a nuisance has led to its immediate abatement, without the necessity of any formal indictment or further proceeding.

I beg, in confirmation of these remarks, to enclose a cutting from the *Colonist*, of the 29th November inst., published by a very singular coincidence. It so happens that the assizes were closed some days ago without any presentment from the grand jury except on the ordinary indictments. The grand jury, therefore, has

no longer any *locus standi*. Neither they themselves, nor the hospital people, nor the editor, seem to recollect this. But the mere terror of the grand jury will probably prevent an expensive prosecution.

So much seems proper to be said with reference to the influence of the grand jury on the administration of criminal justice. But it seems also important to consider that no administration of justice will be fully efficient which does not commend itself to public sentiment. And, notwithstanding the excellent results of the Speedy Trials Act, which operate without any jury at all, grand or petty, I do not think that the same authority would adhere to the assize courts if grand juries were no longer summoned. And the Speedy Trials Acts themselves are chiefly recommended to the popular sense by this, that their application is wholly optional with the criminal; he may always elect to be tried at assizes with the full complement of twenty-four men swearing to their belief in his guilt. There would probably be a strong revulsion of feeling against these acts if they were made applicable generally, whether the person charged were or were not willing to waive a jury. Perhaps this consideration would make it very difficult to effect a change in the organization or procedure of a petty jury, and yet it is with the petty jury, not with the grand jury, that the failure or obstruction of justice (if any) originates. But upon this topic your circular calls for no observations.

In British Columbia, I think that the position of a grand jurymen, and the privilege of making presentments are highly valued, notwithstanding that the summons may occasionally cause individual inconvenience. The views of the leading inhabitants in the various districts of town and country are thus made known in the most public manner, and with an authority which no other body possesses; for grand juries are popular bodies without being political, and their presentments are voiced by a much more select constituency than can be found elsewhere.

In a great metropolis like London, where there is a network of stipendiary magistrates of great experience, highly trained, and highly paid, highly interested therefore on all grounds in the due performance of their functions, and highly prepared to perform them well, where there is a large body of detective police, entirely distinct from the ordinary constabulary—and where there are constantly full opportunities for men in all positions of life to place any grievance in full light of day, grand juries are probably unnecessary, and feel themselves to be so, and may perhaps usefully be extinguished. But as long as all these circumstances are exactly reversed, I should be sorry to see grand juries abolished here.

MR. JUSTICE CREASE.

Within my experience during the last thirty-two years in the profession in British Columbia, including nine years as her majesty's attorney general and twenty years as judge of the supreme court of British Columbia, the question of the abolition of grand juries has repeatedly arisen, but their practical utility has been so great that all suggestions for their abolition have come to nothing.

In 1858, during the gold rush, and for several years subsequently, indeed during all the early days of the province, grand juries were an absolute necessity throughout every part of British Columbia.

By their means a scattered alien, polyglot population, recruited from adventurous spirits, arriving from all the four winds of heaven, became practically acquainted for the first time with the forms and general spirit of British criminal law. This gave them at once a good practical substitute for the only final remedy to which they had heretofore been accustomed—the bloody arbitrament of rifle and revolver.

By a wise provision of that day, rendered necessary in such a scattered population of miners, the judge in circuit could select the grand and petty juries without regard to nationality.

This unusual enactment, the suggestion of then Mr., now Chief Justice Begbie, worked like a charm; and the wildest spirits under the sense of responsibility be-

came the strongest supporters of law and order. From that day to this, arms have been no longer carried, except for the purposes of defence against the attacks of natives, then very numerous and untamed, or to procure food.

In Victoria, a young town, there were always enough British subjects for all administrative purposes. But there also the grand jury up to recent times was a valuable adjunct to the administration of justice.

At a time when a local governor was supreme, their presentments attacked crime of all kinds and degrees, and nuisances of all descriptions, with great boldness. They alone could adequately draw attention to defects and shortcomings in the administration of justice in the various districts, and to public wants in different localities, safety of life and limb along dangerous routes, and so forth, which would otherwise not have been brought for correction to the notice of the government of the day.

The excitement of the assize over, the grand jurors, as they scattered to their work and homes, carried with them the practical assurance that life, liberty and property were thoroughly secure under the law which they had been administering in the remotest portions of the land—a valuable result indeed, in the absence of police, or any other force but respect for British law to compel obedience to its mandates.

As time rolled on and responsible government with its system of local representatives to explain and present local wants was introduced the utility of grand juries was gradually diminished, particularly so as population increased; for then municipalities sprung up, and trained men were appointed as stipendiary magistrates. But still the grand jury has its value in towns from the fact that a number of men together can make useful presentments; and as they not unfrequently do in this young country, call attention to criminal and other matters of much public moment, which could not without much personal odium be inaugurated by individuals.

In the districts of this large and sparsely-settled country, divided as large portions of it are from one another by mountain ranges, the grand jury is not only necessary, but in a measure indispensable.

In towns and cities wherever they possess men thoroughly efficient (*e.g.* stipendiary magistrates) trained to discharge the duties of a public prosecutor, no doubt the grand jury can be dispensed with.

Probably Victoria, Vancouver city, New Westminster and Nanaimo would be benefited, rather than the reverse by their abolition. In these cities there is too great a tendency in grand juries, despite the repeated and explicit charges of the various judges defining their exact duties, to take on themselves the functions of the petty jury, and endeavour to try cases on their merits, instead of confining themselves to ascertaining whether there is a *prima facie* case for enquiry.

This creates the loss of much valuable time and expense.

I think, therefore, that as far as British Columbia is concerned, the grand jury may safely be abolished in the cities I have named but are still necessary in the outlying districts of the country.

In these they could not safely be dispensed with as valuable aids to the peace, order and good government of the province.

MR. JUSTICE DRAKE.

I consider the proposed step will not in any way prejudice the administration of justice. As a rule the grand juries accept the suggestions of the presiding judge with respect to the indictments which are laid before them.

Under the present system the depositions are all sent to the attorney general, and he practically decides whether an indictment should be laid or not and the need for grand juries in criminal cases is practically obsolete.

There may be cases of private prosecutions which should be provided for in the proposed legislation.

I suppose the question of allowing criminals to testify on their own behalf will have serious consideration.

MR. JUSTICE MC CREIGHT.

No doubt it sometimes occurs to a judge of assize that in some respects the grand jury system causes an expense and inconvenience which exceed its utility, but on consideration I cannot say that the abolition in this province would be advisable, at all events, for some time to come. Our population is small and scattered and the present form of government has only been in operation about 19 years. If there is no grand jury the duties which they now discharge will, I suppose, be performed by a provincial officer. I cannot say that the change, although it would probably work well in the great majority of cases, might not on some occasions raise doubts as to its policy. Again, grand juries have sometimes been found useful in matters of public interest where the authorities and the press have delayed to interpose. I think the time will come when the suggested change may be made with more safety than at present.

JUDGE SPINKS.

I beg to say that, since 1876, when I commenced to practise in London, England, to the present time, I have only known of three cases where the grand jury have exercised their powers, and in all, I venture to think, it would have been better if they had not done so.

JUDGE HARRISON.

In the jury districts of the province of Victoria, Nanaimo and New Westminster the only qualifications for grand and petit jurors are being on the voters' lists of the district and being selected and placed on the grand jury or petit jury list by selectors (a government officer and two justices of the peace appointed by the lieutenant-governor) who "are to select such persons residing in their district as in the opinion of the selectors or a majority of them are the most discreet and competent for the performance of the duties of jurors."

Consolidated Statutes, B.C., 1888, ch. 64, sec. 18. And the selectors are to distribute the names of the persons selected into two divisions, the first consisting of grand jurors and the second of petit jurors, making such distribution according "to the best of their judgment with a view to the relative competency of the parties to discharge the duties required of them."

Consolidated Statutes, B.C., 1888, ch. 64, sec. 19. And to guard against evasion of jury duty any person who has been registered as a voter and lives in the district is still liable to serve as a juror even though he removes his name from the voters' list.

Consolidated Statutes, B.C., ch. 64, sec. 89. The only qualification required for a person to become a voter is residence and being a British subject.

There is no qualification for either grand or petit jurors in the other parts of the province. B.C. Jurors Act, 1860, sec. 1. Revised Statutes Canada, ch. 174, secs. 60, 176.

Schedule A and ch. 144, sec. 2, and Consolidated Statutes, B.C., 1888, pages xxix and xxx, and ch. 64, secs. 4 and 44.

Petit jurors only receive jurors' allowances (mileage and per diem allowance.)

In districts other than jury districts, the same persons are summoned sometimes as grand jurors, and at other times as petit jurors. Doing so enables the man who has served at one assize as a grand juror, at his own expense, to receive something towards paying his expenses when serving in a judicial capacity, *i.e.*, as a petit juror at another assize.

Though there is no statute imposing that duty on the Government, the crown as represented by the colonial or provincial attorney general has always assumed the responsibility and paid the expenses of prosecuting offenders for indictable offences. Few, if any, prosecutions, except in libel cases, have ever been prosecuted by private prosecutors.

The plan which has been adopted is certainly preferable to leaving criminal prosecutions to grand juries and private prosecutors, and has been found so essential in the administration of criminal justice, that I think it extremely unlikely that any government of the province would leave to private prosecutors what has become to be regarded as the duty of the attorney general's department.

The indictment is not now an accusation presented by the grand jury upon their own knowledge, and the functions of the grand jury have been virtually reduced to finding or ignoring the bills of indictment laid before them, and to making presentments which to be effective must be followed up by indictment.

The grand jurors usually present an address to the presiding judge, sometimes calling attention to nuisances and representing the state of the roads, gaols, &c., but I think that like representations made by any of the petit jurors, or by the members of the legislature for the district would have as much effect.

It may be said that the power of the grand jury to ignore bills of indictment is beneficial in protecting accused persons against groundless accusations, but the grand jury deal with the evidence for the prosecution only, and it seldom happens that there is not sufficient evidence produced for the prosecution to justify their finding a true bill and their ignoring the bill of indictment does not prevent another indictment being found against the accused person for the same offence at another assize.

Under the circumstances I think that the abolition of grand juries in this province would be advisable.

JUDGE CORNWALL.

In replying to your circular I must do so having special reference to the peculiar circumstance of the district in which I as a county court judge exercise a limited criminal jurisdiction.

In such a district, remote from the centres of judicial administration and of the ordinary government administration, I think it would be a great pity if the functions of grand juries were abolished to such an extent as to prevent or render unnecessary their being summoned to meet the judges of assize. Such meetings with the judges of the principal people of a neighbourhood is generally pregnant with good. An interchange of views and experience generally takes place in a formal and official manner, the people are brought into immediate contact with the judges, hear what they have to say and are able on their part to advance recommendations and suggestions which may in many cases be acted upon with advantage.

Looking upon the matter in this light I should be very sorry to say anything in favour of the absolute abolishment of grand juries and their functions, but with reference to the one point of their investigation of the bills of indictment presented to them I think there would be nothing lost if they were relieved of such part of their functions.

JUDGE BOLE.

I am decidedly of opinion that the abolition of grand juries would be at present a step in the wrong direction, as I have always considered the grand jury as a criminal tribunal of much utility and one which as a rule discharges its duties properly.

Moreover the change proposed is open to the grave objection that the powers of grand juries would be transferred to officials and might in some cases possibly lead to serious complications.

NORTH-WEST TERRITORIES.

MR. JUSTICE RICHARDSON.

I have to state that having, since July, 1876, been continually resident in the North-West Territories, I am unable, with any degree of confidence, to venture an opinion as to the desirableness of abolition in the provinces, but, from over twenty years' active practice in Ontario previously, I had become impressed with the idea (which from observation since at a distance has not changed) that in that province at least grand juries might with no injury be dispensed with.

In the North-West Territories there have been no grand juries, and, from judicial experience of over fourteen years, I am strongly impressed with the opinion that the introduction of that system would 'be not only undesirable but a misfortune.

MR. JUSTICE WETMORE.

My opinion has been long that the grand juries are of very little use, if any, either in the administration of criminal jurisprudence or otherwise. The creation of municipal councils and the inspection and authority they exercise over gaols, county buildings and property and other matters of public interest has entirely done away with any value or importance to be attached to presentation by grand juries upon their subjects.

As far as their value in the administration of criminal laws is concerned, I am afraid they are too often the means by which persons who ought to be punished improperly escape.

My experience in these territories where no grand juries exist convince me, I may almost say every day, that the criminal laws can be more effectually administered without grand juries than with them.

MR. JUSTICE ROULEAU.

I have the honour to inform you that, since 1883, I have administered the criminal justice in the territories and that in no instance I have remarked any inconvenience in carrying my judicial functions for want of a grand jury. In my opinion the grand jury is a worn out machine without any good practical effect.

As I see by the circular that the honourable the minister of justice is going to codify our criminal law, I wish you would kindly remind him that as far as I am concerned, I am perfectly satisfied with a petty jury of six. Not only it works very well, but in certain places it would be difficult to find a good panel of petty jurors from whom a choice of twelve could be made.

PRESENTMENT OF GRAND JURIES, ETC.

HAMILTON LAW ASSOCIATION

Is of the opinion, for the following among other reasons, that it would be inadvisable to abolish the grand jury :

1. The grand inquest has been established from time immemorial; the community have always had the right to investigate for themselves through the medium of the grand jury criminal charges and mal-administration in office, and it would be unsatisfactory and contrary to the spirit of our institutions were they investigated by a single individual.

2. The grand jury affords great protection to the innocent. If a bill is thrown out the public generally consider that there was no reason for having charged the prisoner, whereas under the proposed system, to a far greater extent, innocent and guilty alike must undergo a public trial with the consequences that in public

opinion a man who escaped would in the majority of cases be stigmatized as guilty and as having escaped not because he was innocent but for lack of evidence on which to convict him.

3. The grand jury are better qualified to judge whether a prisoner should be put upon his trial than is a public prosecutor, who often has not only a monetary interest in preferring a bill, but whose environment unconsciously forms his mind to view a case from a detective's standpoint and inculcates principles prejudicial to the impartial investigation of the evidence, and on the other hand in cases against influential persons, local influences would be more likely to prevail with an individual to stifle prosecutions than with the grand jury of forty-eight persons chosen from the body of the people.

Further, grand juries can exercise their common sense in the consideration of bills presented, and even if apparent offences are disclosed, they can ignore those where matters trivial or unworthy or prosecution for any reason are presented.

4. The right of the public as represented by the grand jury to examine into the condition of all jails, asylums and public institutions should not be taken away or entrusted to a government official.

It is of vital importance in preventing the improper abuse of power in these institutions that the general public as represented by a body of independent citizens should have power of investigation.

Grave abuses may arise and while government inspection is always necessary it should not be final.

Under our system where crown officials and officers of public institutions are necessarily appointed by the same government in the investigation of abuses it would be eminently undesirable to have one official passing upon another's acts where such investigations have been heretofore considered by the grand inquest.

The result, if contrary to public opinion or prejudice, would be very unsatisfactory and might lead the community at large to believe that the result had been the effect of partisanship or political bias.

5. The expense of the grand jury system is not excessive and the question of expense in the administration of the criminal law is not the vital principle to be looked at; if it were, there are many offences which as a matter of expense it may be said are not worth the expense of trial; but the great principle to be guarded is that crime shall not be tolerated and it is not only necessary that justice should be done, but the people must be able to see and feel that justice is administered fearlessly in the face of the public and in courts open to all.

The grand jury system is the only means of securing this great end. A single official, no matter how able or honest, disposing of criminal matters in the secrecy of his own office, could never command the respect and confidence that an investigation before a large body ever changing must inevitably inspire.

6. It is not only a time-honoured institution, but the jury system of trial as they advanced in civilization has been adopted in every country in which the civil law prevails, and it is only those countries where from the earliest times the jury system was in existence which, not properly appreciating its value, desire to destroy its usefulness.

7. It invests the administration of justice with a degree of dignity and solemnity and through it the people are educated in the knowledge of the law and the administration of justice in the country. The benefit of the system as an educational factor cannot be over-estimated.

8. The grand jury is an institution of the people and an emblem of their sovereignty; it has large powers which have been wisely exercised in the past and is a channel for the communication of suggested reforms often of great value.

PRESENTMENT OF THE GRAND JURY TO THE HONOURABLE CHIEF JUSTICE ARMOUR.

The jurors understand that a movement is on foot having in view the abolition of the grand jury system, but are of opinion that this might be a mistake. We con-

sider that the grand jury is an important factor in the administration of justice. It has extensive powers in the investigation of public wrongs and official mal-administration. It is drawn from the general body of the community and is not liable to prejudice or political bias, and is a channel for the suggestion of reforms which may seem desirable to the general public. It is also useful in preventing the trial of trivial charges, and of those which prove to have no foundation in fact. Further, the educational influence exerted on the people by reason of the constant service as jurors of those drawn periodically every year from all walks of life should not be lost sight of. * * * * *

His Lordship's Reply.

* * * What you have said of grand juries is worthy of the fullest consideration and I am fully in accord with what you have said. In doing away with the grand jury the difficulty is to find some system that would be equal to it to take its place. At the risk of having it said that I am talking politics, I will say that the grand jury is a system essentially democratic, while a system which it is proposed to substitute for it, is bureaucratic. The grand jury is drawn from all over the county in which the crime is committed. It is the administration of the law by the people and for the people. So with the petit juries. Those who are in favour of doing away with the grand jury system favour the substitution for it of a bureau. It is easy to pull down but not easy to build up again, and while it is easy to say—"do away with the grand jury," it is hard to think of a system that would be as good. A bureau system would put the administration of the law into the hands of some functionary to whom it would be an object to make as many prosecutions as possible and who might be influenced by prejudice. Of course the grand jury is not the cheapest system, but it would not do to look at the question in that light only. In times when there are any political questions agitating the people, charges of treason, seditious writing and the like, the grand jury is indispensable. In some petty offences it might be done without, but when grave questions arise, it is necessary to have a grand jury to pass upon the conduct or writings that are said to be treasonable or seditious; when one political party is calling treason, what the other side says is only the exercise of freedom. We have seen grand juries throwing out bills for treason and being fined for so doing, but the grand juries have prevailed, and to that we owe to a large extent our freedom of speech and thought. An individual might consider a certain writing seditious that a grand jury would not. Another benefit of the grand jury system is that it serves to educate people. Every person is bound by the law, even if they are ignorant of its requirements, and it is desirable that the people who are bound by the law should understand it. Grand and petit jurors come here and hear the criminal cases tried and they come to understand the law. Still, another benefit of juries, grand and petit, is that people are warned to keep out of the clutches of the law, not only in a criminal sense, but common law as well. For myself I am in favour of the democratic system as against the bureaucratic. The latter is in vogue in Russia, where men are sent off, no one knows where, without any trial. No one wants that system here.

PRESENTMENT OF THE GRAND JURY, NORTHUMBERLAND AND DURHAM.

We cannot advise the abolishment of the present existing grand jury system, believing as we do that it is essential in the interests of true administration of justice. The proposal to do away with old methods that have become time-honoured in the history of the country and that have proved themselves safeguards of the rights of the people without substituting in lieu thereof other plans or methods looking to an improvement that will commend themselves to the general intelligence of the community should not be sanctioned. The views and sentiments of your lordship as delivered on this important question are in strict accord with the views and feelings of the grand jury.

PRESENTMENT OF GRAND JURY, ONTARIO COUNTY, TO MR. JUSTICE ROSE.

The grand jury have considered with interest your lordship's carefully prepared charge to them and especially those parts of it which relate to the continuance of the grand jury as a part of the system of administering justice. The grand jury beg to submit that as far as they can learn, the principal objection urged for the abolition of the grand jury is the question of expense, having regard to the small number of cases presented to the grand juries for consideration.

Your grand jury are of opinion that if crimes were so numerous as to occupy the attention of grand juries for several days and weeks, as is the case in large cities, the abolition of grand juries would not be thought of.

We are of opinion that this view of the question should not be entertained, and that it would be a most unfortunate state of affairs if the necessary expenditure for the administration of justice should be a factor in determining the mode of trial of cases involving the liberty, the lives and reputation of our people.

It must be remembered that the same spirit of so-called economy which prompts the movement to abolish grand juries would also deprive the accused persons of the right of trial by jury.

We are of opinion that it is well for a people to preserve with zealous care every safeguard which the experience of the past has considered necessary for the protection of its best interests, we must not forget that such safeguards are much easier lost than gained by a people, and that if the experiment of abolishing the grand jury was tried, no matter how unsatisfactory the result, there would be serious difficulty in re-establishing it as a part of our system.

The main question to be considered is: does the present system of administering criminal justice protect the property, lives and character of our people reasonably well without being too burdensome as to the expense of administering it?

We venture the opinion that there is no country in which the criminal laws are better known or administered than in this province. That the criminal laws are so well known and observed, the grand jury believe is due largely to the fact that four times a year a considerable number of men drawn from all parts of the country and from different occupations and stations in life are called to take part in administering them.

What the grand and petit jurors learn while discharging their duties is discussed through the country to such an extent that the mass of the people become reasonably well acquainted with the law.

From enquiry we are of opinion that a cheaper system might be devised for bringing a jury together, but with the result of impairing its efficiency.

We do not overlook the fact that in the United States it costs less to bring together jurors, but we respectfully call attention to the fact that, while days and weeks and even months have been occupied in electing jurors for the trial of a single criminal case in the United States, by our system, in the Birchall case, the prisoner was arraigned, a jury selected and a witness sworn inside of an hour.

Under our system in no case has the time of the court and witnesses been unduly wasted in discussing the fitness of the jurors returned upon the sheriff's panel, and very rarely has it been necessary to summon any other jurors than those included in the panel.

As your lordship, with your great experience at the bar and as a judge, and with your careful consideration of the subject, was unable to suggest a better system for deciding whether persons should be placed on trial for criminal offences, we certainly are in no better position to do so.

There are numerous instances where it is suspected that magistrates have improperly declined to commit persons for trial owing to their being near neighbours of the accused, in which cases the aggrieved persons have been enabled to go before the grand jury and make their complaints and have the offenders brought to justice.

We respectfully ask that your lordship will be good enough to represent to the honourable the minister of justice our views in this matter.

PRESENTMENT GRAND JURY, PRINCE EDWARD COUNTY, TO THE HON. JUSTICE ROSE.

We believe it (the grand jury system) to be one of the important safeguards given the people for their own protection against offences committed in their midst.

We believe that offences committed in a community are virtually, if not theoretically, committed against the people of that community. The grand jury system enables a community to carefully and dispassionately examine into the offences and to decide whether they are well founded or not, and we feel that any system which would take from the people this power of investigating offences against their own peace would be fraught with danger to themselves.

Therefore, we heartily concur with your lordship's views in regard to the value of the grand jury system, and sincerely hope that no effort will be made to weaken or destroy it.

PRESENTMENT GRAND JURY, NAPANEE, TO THE HON. JUSTICE ROSE.

We have considered your lordship's remarks anent the removal or change of the grand jury system, and would respectfully present that we feel the grand jury to be the bulwark of our liberties and that no change at present seems to us desirable.

PRESENTMENT OF THE GRAND JURY, KINGSTON ASSIZES.

We cordially endorse your remarks respecting the continuance of the grand jury system, considering, as we do, that the same is not only a furtherance, but likewise a safe-guard in the administration of justice.

PRESENTMENT OF THE GRAND JURY, OXFORD COUNTY.

The grand jurors present that they have considered the question and are unanimously of the opinion that in the interests of the administration of criminal justice the present grand jury system should continue.

PRESENTMENT OF THE GRAND JURY, BRANT COUNTY.

The grand jury were glad to hear the reference made by your honour in your charge to them respecting the grand jury system, and they consider the question now being raised by the minister of justice for the dominion, on which he seeks the advice of the judges and others interested in the administration of criminal justice throughout the provinces, as to whether the grand jury should be abolished or retained as a factor in such administration of justice, a most important one. The grand jury thank your honour for the suggestions made to them on this subject, and they value them all the more because they come from a gentleman of so ripe experience in the administration of civil and criminal justice. In their rooms they have given the matter their serious consideration and they have deliberated upon the conflicting opinions as to the usefulness of the system and the possibility of the adoption of some procedure which would take its place in the event of its abolition. In such deliberations the grand jury have not depended for the presentment they are about to make on the reliability of the grand jury on account of its antiquity. They have preferred to discuss it on the grounds of its present utility, and they have come to the conclusion, and they now respectfully present to your honour that in their opinion the grand jury should be retained, that any substitute therefor, as yet suggested, and so far as known to this grand jury, might be fraught with danger to the liberty of the subject, that the undue exposure of an accused person, without the preliminary investigation of a grand jury to the contumely which would be his,

were he publicly placed in a prisoner's dock, should not be countenanced; that the investigation which it is now the province of the grand jury to make should be continued until some better system can be brought to light and disclosed, that the functions of the grand jury should not under the existing state of the law be relegated to the crown prosecutor, thereby rendering his position an anomalous one, and that in the opinion of this grand jury, the grand jury system has not yet outlived its usefulness.

PRESENTMENT OF THE GRAND JURY, WATERLOO COUNTY.

Seeing that only a very few cases have been brought before the grand jury in the county during the last number of years, we are unanimously of the opinion:

"That the grand jury might be dispensed with, and the inspection of the jail and other county matters could be done as efficiently and at much less cost by some other means. Recent legislation has in our opinion done away with the necessity of grand jurors."

GRAND JURY ROOM, OXFORD.

The grand jurors are of opinion that the administration of criminal justice would be fully as well carried out and with as much satisfaction to the public by doing away with the grand jurors as under the present system.

PRESENTMENT, NORTHUMBERLAND AND DURHAM.

We have considered the question of the abolition of the grand jury, which your honour referred to us as a proper subject for presentment, and we beg to report that we are unanimously opposed to the abolition of this ancient bulwark of popular liberty. We cannot agree with the learned advocates of this gigantic innovation, either on the grounds of efficiency or economy in the administration of justice. It seems to us the proposition that a salaried officer, whose functions should be similar to those of the procurator fiscal of Scotland, is suggested and supported mainly by the hope that such a change would furnish more fat berths for office-seekers, a class which is very numerous in this country. We beg therefore to assure your honour that we are strongly opposed to the destruction of a system of ordeal which has existed ever since the time of the Saxon kings of England, and has often stood between the tyrannical crown and the persecuted subject.

PRESENTMENT OF THE GRAND JURY, PERTH COUNTY.

Having learned by intimation from your honour when addressing the jury that it would be advisable to give an expression of your approval or disapproval as to the question of abolishing the grand jury system in order to expedite the work and curtail the expense of our courts; for the purpose we held a special session at which the above subject was thoroughly discussed, and on motion it was unanimously decided that it would not be in the interests of the county to make any change in that respect.

STATEMENT

(67)

Of amounts paid for claims for bounty on pig-iron manufactured in the Dominion; showing quantities claimed upon and names of claimants, as well as amount paid in each case.

—
CUSTOMS DEPARTMENT, CANADA,
OTTAWA, 23rd July, 1891.

To Hon. Minister of Customs.

SIR,—There are four Acts relating to bounty on pig-iron, viz. :—

1883—\$1.50	per ton.	from 1st July, 1883,	to 30th June, 1886.
do \$1.00	do	do 1883	do 1889.
1886—\$1.00	do	do 1886	do 1892.
1890—\$2.00	do	do 1892	do 1897.

Each of these Acts provides for Returns to Parliament in 15 days from opening, but it is not stated as to the Department from which the Return should be sent, and this Department has regularly sent a statement to the Auditor General, which is published in his report.

JAMES JOHNSON,
Commissioner of Customs.

STATEMENT of amounts paid for claims for Bounty on Pig-iron manufactured in the Dominion, showing quantities claimed upon, and names of claimants, as well as amount paid in each case.—(Under Order in Council of 27th October, 1883.)

When Paid.	No. of Tons.	Amount Paid.	To whom Paid.
		\$ cts.	
Nov. 27, 1883	759·0610	1,138 97	John McDougall & Co.
do 27, 1883	7,356·0011	11,034 82	Steel Company of Canada.
Jan. 12, 1884	603·0300	904 72	E. B. Hall & Co.
do 14, 1884	9,610·0013	14,415 97	Steel Company of Canada.
do 15, 1884	934·1000	1,401 75	John McDougall & Co.
March 26, 1884	242·0179	364 34	Hall Bros. & Co.
April 14, 1884	993·0144	1,490 62	John McDougall & Co.
May 19, 1884	254·0034	382 12	Hall Bros. & Co.
June 9, 1884	129·0064	193 98	do
do 11, 1884	2,632·0168	3,949 26	Steel Company of Canada.
do 11, 1884	1,860·0012	2,790 90	do
do 11, 1884	4,014·0195	6,022 46	do
Total, 1883-84	29,388·0016	44,089 91	
July 7, 1884	120·1850	181 38	Hall Bros. & Co.
do 9, 1884	2,117·1852	3,176 88	Steel Company of Canada.
do 9, 1884	1,209·0080	1,813 56	John McDougall & Co.
Aug. 13, 1884	123·1545	185 65	Hall Bros. & Co.
Sept. 12, 1884	118·1625	178 22	do
do 12, 1884	3,098·0848	4,647 63	Steel Company of Canada.
Oct. 12, 1884	994·1000	1,491 95	John McDougall & Co.
do 15, 1884	115·0230	172 67	Hall Bros. & Co.
do 21, 1884	1,764·1008	2,646 76	Steel Company of Canada.
Nov. 21, 1884	1,738·1824	2,608 37	do
Dec. 6, 1884	83·0895	125 17	Hall Bros. & Co.
Jan. 10, 1885	1,004·0160	1,506 12	John McDougall & Co.
do 10, 1885	1,869·0560	2,803 92	Steel Company of Canada.
do 13, 1885	1,744·1920	2,617 44	do
Feb. 5, 1885	1,727·0872	2,591 15	do
March 6, 1885	1,755·1312	2,633 48	do
April 8, 1885	647·1880	971 88	John McDougall & Co.
do 8, 1885	1,769·0080	2,654 10	Steel Company of Canada.
May 4, 1885	177·1870	266 90	Hall Bros. & Co.
June 5, 1885	1,809·1392	2,714 54	Steel Company of Canada.
May 9, 1885	1,778·0448	2,667 34	do
Total, 1884-85	25,769·1312	38,654 91	
July 8, 1885	902·0320	1,353 24	John McDougall & Co.
do 8, 1885	1,699·1424	2,549 56	Steel Company of Canada.
do 18, 1885	144·1730	217 29	Hall Bros. & Co.
Aug. 5, 1885	1,914·1504	2,872 12	Steel Company of Canada.
Sept. 11, 1885	1,787·0480	2,680 86	do
Oct. 8, 1885	1,909·0406	2,863 81	do
do 15, 1885	723·0480	1,084 86	John McDougall & Co.
Nov. 5, 1885	1,980·1104	2,970 82	Steel Company of Canada.
Dec. 8, 1885	1,714·0432	2,571 32	do
Jan. 1886	920·1840	1,381 38	John McDougall & Co.
do 7, 1886	2,213·1808	3,320 85	Steel Company of Canada.
Feb. 3, 1886	1,802·0720	2,703 54	do
March 6, 1886	1,660·1024	2,490 77	do
April 3, 1886	1,024·1600	1,537 20	John McDougall & Co.
do 5, 1886	2,069·0064	3,103 55	Steel Company of Canada.
May 6, 1886	1,786·0960	2,679 72	do
June 4, 1886	1,925·1500	2,888 67	do
Total, 1885-86	26,179·0196	39,269 56	
July 6, 1886	1,936·0624	2,904 46	Steel Company of Canada.
do 9, 1886	1,048·1000	1,572 75	John McDougall & Co.
Aug. 4, 1886	1,721·0320	2,581 73	Steel Company of Canada.

STATEMENT of Amounts paid for claims for Bounty on Pig-iron, &c.—Continued.

When Paid.		No. of Tons.	Amount Paid.	To whom Paid.
			\$ cts.	
Sept.	6, 1886	1,776 0528	2,664 39	Steel Company of Canada.
Oct.	4, 1886	1,871 1600	2,807 70	do
do	7, 1886	169 0520	253 69	John McDougall & Co.
Nov.	4, 1886	1,851 0944	2,777 20	Steel Company of Canada.
Dec.	9, 1886	1,847 0960	2,771 22	do
Jan.	7, 1887	1,941 1152	2,913 36	do
do	7, 1887	1,126 0333	1,690 00	John McDougall & Co.
Feb.	4, 1887	1,873 0604	2,809 96	Steel Company of Canada.
do	4, 1887	204 0986	306 75	Geo. McDougall.
March	6, 1887	122 0000	183 00	do
do	11, 1887	1,517 1200	2,276 40	Steel Company of Canada.
April	4, 1887	1,148 1000	1,722 75	John McDougall & Co.
do	6, 1887	146 1310	219 98	Geo. McDougall.
do	6, 1887	1,475 1068	2,213 31	Steel Company of Canada.
May	6, 1887	1,881 0368	2,071 78	do
do	6, 1887	137 1530	206 64	Geo. McDougall.
June	2, 1887	149 0175	223 50	do
do	6, 1887	1,582 0672	2,373 50	Steel Company of Canada.
Oct.	4, 1887	9,610 1300	14,415 97	
		5,078 0160	7,617 12	Old claims of Steel Company of Canada paid to Department of Railways.
Total, 1886-87		39,717 1104	59,576 16	
July	5, 1887	1,209 1500	1,814 63	John McDougall & Co.
do	9, 1887	1,665 0096	2,497 50	Steel Company of Canada.
Aug.	5, 1887	1,655 1952	2,483 96	do
Sept.	3, 1887	161 0460	241 84	Geo. McDougall.
do	6, 1887	1,646 1360	2,470 02	Steel Company of Canada.
Oct.	4, 1887	1,678 1648	2,518 23	do
do	4, 1887	139 1460	209 59	Geo. McDougall.
do	4, 1887	922 0000	1,383 00	John McDougall & Co.
Nov.	4, 1887	1,701 0000	2,551 50	Steel Company of Canada.
do	4, 1887	151 0780	197 08	Geo. McDougall.
Dec.	5, 1887	1,498 0000	2,247 00	Steel Company of Canada.
do	6, 1887	144 0074	216 00	Geo. McDougall.
Jan.	4, 1888	871 0034	1,307 62	John McDougall & Co.
do	5, 1888	1,700 0208	2,550 15	Steel Company of Canada.
do	5, 1888	139 0021	208 50	Geo. McDougall.
do	3, 1888	94 0000	141 00	do
do	4, 1888	882 1680	1,324 26	Steel Company of Canada.
April	4, 1888	1,441 1776	2,162 83	do
do	4, 1888	834 0000	1,251 00	John McDougall & Co.
May	5, 1888	1,840 0544	2,760 40	*Londonderry Iron Co. (Limited).
June	4, 1888	1,852 0400	2,778 30	do
Total, 1887-88		20,766 2217	31,151 58	
July	4, 1888	868 1500	1,303 12	John McDougall & Co.
do	6, 1888	1,670 1968	2,506 47	Londonderry Iron Co. (Limited).
Aug.	3, 1888	1,533 0560	2,299 92	do do
Sept.	5, 1888	1,691 0288	2,536 71	do do
Oct.	3, 1888	1,050 1000	1,575 75	John McDougall & Co.
do	3, 1888	1,432 1744	2,149 30	Londonderry Iron Co. (Limited).
do	4, 1888	159 0000	238 50	Geo. McDougall.
Nov.	5, 1888	1,726 0064	2,589 05	Londonderry Iron Co. (Limited).
do	8, 1888	143 0000	214 50	Geo. McDougall.
Dec.	3, 1888	129 0500	193 87	do
do	4, 1888	1,765 1024	2,648 26	Londonderry Iron Co. (Limited).
Jan.	4, 1889	854 0500	1,281 37	John McDougall & Co.
do	4, 1889	1,663 0176	2,494 63	Londonderry Iron Co. (Limited).
do	10, 1889	123 0940	185 20	Geo. McDougall.
Feb.	8, 1889	1,690 1168	2,535 87	Londonderry Iron Co. (Limited).
March	4, 1889	1,357 1328	2,036 49	do do
do	7, 1889	122 0160	183 00	Geo. McDougall.

* Name of Steel Co. of Canada changed to Londonderry Iron Co. (Limited), 5th May, 1888.

STATEMENT of Amounts paid for claims for Bounty on Pig-iron, &c.—Continued.

When Paid.	No. of Tons.	Amount Paid.	To whom Paid.
		\$ cts.	
April 3, 1889.....	892 0000	1,338 00	John McDougall & Co.
do 4, 1889.....	1,943 0400	2,914 80	Londonderry Iron Co. (Limited).
do 18, 1889.....	62 1280	93 96	Geo. McDougall.
May 6, 1889.....	1,947 1584	2,921 68	Londonderry Iron Co. (Limited.)
June 6, 1889.....	1,995 0896	2,993 17	do do
Total, 1888-89.....	24,822 1080	37,233 62	
July 4, 1889.....	1,613 0720	2,420 04	Londonderry Iron Co. (Limited).
do 4, 1889.....	1,034 0666	1,551 50	John McDougall & Co.
Aug. 5, 1889.....	1,771 1344	1,771 67	Londonderry Iron Co. (Limited).
Sept. 5, 1889.....	1,829 1152	1,829 57	do do
Oct. 3, 1889.....	1,704 1280	1,704 64	do do
do 4, 1889.....	861 1000	861 50	John McDougall & Co.
do 4, 1889.....	108 1500	108 75	Geo. McDougall.
Nov. 5, 1889.....	1,705 1856	1,705 92	Londonderry Iron Co. (Limited).
do 5, 1889.....	173 1770	173 87	Geo. McDougall.
Dec. 3, 1889.....	157 1750	157 87	do
do 4, 1889.....	1,907 1840	1,907 90	Londonderry Iron Co. (Limited).
do 30, 1889.....	83 0000	83 00	Geo. McDougall.
Jan. 4, 1890.....	1,821 0912	1,821 45	Londonderry Iron Co. (Limited).
do 7, 1890.....	534 1600	534 80	John McDougall & Co.
Feb. 5, 1890.....	1,892 1936	1,892 96	Londonderry Iron Co. (Limited).
March 3, 1890.....	1,755 0752	1,755 37	do do
April 3, 1890.....	640 0666	640 34	John McDougall & Co.
do 8, 1890.....	1,596 1344	1,596 67	Londonderry Iron Co. (Limited).
May 3, 1890.....	1,613 0944	1,613 47	do do
June 6, 1890.....	1,565 1968	1,565 98	do do
Total, 1889-90.....	24,373 1000	25,697 27	
July 11, 1890.....	1,642 0064	1,642 03	Londonderry Iron Co. (Limited).
do 11, 1890.....	862 0666	862 33	John McDougall & Co.
Aug. 4, 1890.....	1,444 0592	1,444 29	Londonderry Iron Co. (Limited).
Sept. 3, 1890.....	1,395 0480	1,395 24	do do
do 11, 1890.....	179 1220	179 61	Geo. McDougall.
Oct. 4, 1890.....	177 1940	177 97	do
do 4, 1890.....	775 0752	775 38	Londonderry Iron Co. (Limited).
Nov. 3, 1890.....	1,693 0656	1,693 33	do do
do 7, 1890.....	193 0640	193 32	Geo. McDougall.
Dec. 5, 1890.....	1,452 0160	1,452 08	Londonderry Iron Co. (Limited).
do 9, 1890.....	155 0542	155 27	Geo. McDougall.
Jan. 7, 1891.....	1,574 0432	1,574 22	Londonderry Iron Co. (Limited).
do 7, 1891.....	990 1000	990 50	John McDougall & Co.
do 8, 1891.....	158 0785	158 39	Geo. McDougall.
Feb. 4, 1891.....	1,562 1248	1,562 62	Londonderry Iron Co. (Limited).
March 7, 1891.....	1,686 0432	1,686 21	do do
do 7, 1891.....	174 1710	174 85	Geo. McDougall.
April 4, 1891.....	1,073 1500	1,073 75	John McDougall & Co.
do 6, 1891.....	443 0256	443 13	Londonderry Iron Co. (Limited).
do 6, 1891.....	159 0837	159 42	Geo. McDougall.
May 4, 1891.....	128 1376	128 69	Londonderry Iron Co. (Limited).
do 4, 1891.....	177 1655	177 83	Canada Iron Furnace Co. (Limited).
June 3, 1891.....	2,052 1184	2,052 59	Londonderry Iron Co. (Limited).
Total, 1890-91.....	20,153 0147	20,153 05	

TOTAL Amount of Bounty on Pig-iron.

	Years.	Tons.	Amount.	
			\$ cts.	
Paid to Geo. McDougall, Three Rivers, Que.....	1886-87	760·0001	1,139 87	
	1887-88	809·0795	1,214 01	
	1888-89	739·0880	1,109 03	
	1889-90	523·1020	523 49	
	1890-91	1,198·1694	1,198 83	
			4,031·0390	5,185 23
Canada Iron Furnace Co. (Limited), Three Rivers	1890-91	177·1655	177 83	
(Name changed from Geo. McDougall, 1st April, 1891).				
John McDougall & Co., Drummondville, Que.....	1883-84	2,626·1754	4,031 34	
	1884-85	3,855·1120	5,783 31	
	1885-86	3,571·0040	5,356 68	
	1886-87	6,495·1177	9,744 44	
	1887-88	3,836·1534	5,756 25	
	1888-89	3,665·1000	5,498 24	
	1889-90	2,070·1932	3,588 14	
	1890-91	2,926·1166	2,926 58	
			29,048·1723	42,684 98
	Londonderry Iron Co. (Limited) and Steel Co. of Canada.	1883-84	25,472·0399	38,213 41
1884-85		21,174·0166	31,761 61	
1885-86		22,463·1426	33,695 59	
1886-87		35,464·1520	53,197 10	
1887-88		16,120·1888	24,181 32	
1888-89		20,413·1200	30,626 00	
1889-90		20,775·0048	21,585 64	
1890-91		15,849·1632	15,849 81	
			177,734·0279	249,110 48
Hall Bros., St Maurices Forges, Que.....		1883-84	1,229·0043	1,845 16
	1884-85	740·0015	1,109 99	
	1885-86	144·1730	217 29	
			2,113·1788	3,172 44

RECAPITULATION.

Londonderry Iron Co. (Limited).....	177,734·0279	249,110 48
Geo. McDougall	4,031·0390	5,185 23
John McDougall & Co	29,048·1723	42,684 98
Canada Furnace Co. (Limited).....	177·1655	177 83
Hall Bros.....	2,113·1788	3,172 44
	213,105·1835	300,330 96

DEPARTMENTAL REPORT

ON CHARGES PREFERRED AGAINST

THE COMMISSIONER OF THE N. W. MOUNTED POLICE.

(69)

NORTH-WEST MOUNTED POLICE, OTTAWA, 13th July, 1891.

SIR,—Towards the end of June, 1890, I received instructions from the late the Right Honourable Sir John Macdonald to inquire into the sundry complaints made by N. F. Davin, Esq., M.P., against the commissioner of the North-West mounted police, as reported in *Hansard* of the 5th and 31st March, and 14th April of that year, and further to investigate any other complaints that might be voluntarily offered.

Having carefully read the *Hansard* debates of the dates mentioned, I extracted therefrom twenty-four charges, to which I have added two that were brought before me while in the North-West.

I now beg to submit reports on these charges in the order in which they were presented.

I have the honour to be, sir, your obedient servant,

FRED WHITE, *Comptroller*.

The Hon. J. J. C. ABBOTT, Q. C.,
President of the Privy Council.

CHARGE No. 1.

When, last autumn, the governor general visited the territories, this force was massed at Regina, in order not only to honour him by the manœuvres and to give him some idea what the mounted police were, but also to give him some pleasure, for he has the eye of a soldier; and a man looking at that fine body of men might, without the least hyperbole apply the words which were applied to the famous six hundred, and which so pleased Lord Palmerston that he raised their author from poverty and obscurity to wealth and affluence. I will only give three or four lines of that remarkable description, which competent critics have pronounced superior even to that of Lord Tennyson; and I say they might be applied without hyperbole to our own mounted police on that occasion:

“Six hundred men for statues fit,
Impatient in their saddles sit,
Whose pawing chargers champ the bit,
And sniff the sunlit air.”

Well, sir, Commissioner Herchmer had been drilled and coached how to manœuvre the men. Sergeant Mahoney, to whom I shall have to make reference shortly, had drilled him in the management of those manœuvres; but, when a body of men are mounted, and some of the horses are bronchos, various little *contre-temps* will arise in the movement of the horses, and, in that way, a got-by-rote command is sure to meet with some sort of disaster. Accordingly, the manœuvres on that occasion were not successful. Now, sir, a light, and an instructive light, is shed on the character of the man whom I arraign before this House, by what occurred after the fiasco at Regina, when he went west to witness the movements of the western escort, which was commanded by a tried soldier, his own brother, Colonel Willie Herchmer, the second in command being Captain McIllree, also a very efficient officer. On that occasion, what did the commissioner do? He turned around, and, in the presence of his excellency, so the thing fell through. I believe Craig intends to bring an action for false imprisonment against Mr. Herchmer, and if he does he will undoubtedly get a verdict.

Sergeant Mahoney, although an excellent infantry drill instructor, is a very indifferent horseman and does not pretend to be a mounted instructor. His duties were to instruct recruits in squad and arm drill. He had nothing whatever to do with the

mounted drill, and, therefore, could not have coached the commissioner with regard to the manœuvres on the occasion in question.

With regard to the second portion of this charge, I have not deemed it proper to make enquiries as to what passed between his excellency and Major Colville respecting the escort at Calgary.

CHARGE No. 2.

IMPROPER SENTENCING OF CONSTABLE SOMERVILLE.

Take a man who has enlisted for five years, he can be dismissed at any moment, and the severest punishment dealt out to him ; but, in any case, under that act, you would expect, sir, that he would be arraigned before the commissioner or the assistant commissioner or some inspector. You would expect, anyway, that he would be tried according to the act. Now, by-and-bye I shall have to deal with other offences, but the gravest offence that I will charge against Commissioner Herchmer is that he has taken that act in his hand which he is bound to administer according to its provisions, and administered it at his royal will and pleasure. For instance, in the case of the man Somerville, who was brought before him without any charge whatever, before any charge was made or any evidence taken, he was sentenced to three months' imprisonment and to be dismissed. That man was not dismissed, and was let out before his time. It is not necessary to enquire why. Whether it was because attention had been called to his case or not, I do not know ; but, anyway, the sentence was not carried out.

This constable had always been a troublesome man. He was engaged for police service on the 3rd May, 1886, and between that date and the 29th October, 1889, his name appeared in the defaulter's book, twice for impertinence to non-commissioned officers ; four times for neglect of duty, carelessness, or direct violation of the regulations ; once for ill-treating a horse ; once for absenting himself without leave ; once for breaking out of barracks, and three times for drunkenness.

In August, 1889, he was punished by Superintendent Steele at Fort Macleod for being drunk, and was then warned that if he came up again he would be dismissed.

On the night of the 29th October, 1889, when stationed at Regina, he asked the orderly officer for permission to go to town. The latter replied that he had no authority to grant leave. Somerville then said he would see the adjutant, when the orderly officer advised him to remain in barracks, remarking that if he went to town he would likely get into the same trouble as at Macleod.

Notwithstanding this advice and warning, Somerville left the barracks without permission and did not return until 12.20 a.m.

On the following morning, he was paraded before the commissioner on a written charge of " having committed a breach of discipline in that he did break out of barracks on the night of the 29th inst. and did not return until 12.20 a.m."

The witnesses were Sergeant-Major DesBarres and Sergeant Birtles.

The commissioner has reported on the case as follows :—

" This constable was brought before me on the accompanying charge and it was clearly proved that he deliberately broke barracks after being refused a pass by Inspector Wilson, who at the same time warned him that Superintendent Steele had threatened to dismiss him the next time he came up.

" In spite of this, he broke barracks and having nothing to say in his defence, being asked the question before sentenced, was sentenced to one month's imprisonment with hard labour and to be dismissed."

The sentence of dismissal was subsequently repealed in order to give Somerville another chance.

In December following, he was confined to barracks for 7 days for appearing on parade with his uniform in a dirty condition.

On the 11th February, 1890, he was drunk while in charge of a team of horses.

On the 9th April, 1890, he was again drunk while en route from one post to another.

On the 25th August, 1890, he was punished for over-staying his pass.

On the 22nd November, 1890, he was again drunk and created a disturbance in the town of Medicine Hat.

On the 30th December, 1890, he was punished for improper conduct in the town of Medicine Hat.

On the 3rd May, 1891, his term of service expired and the commissioner declined to re-engage him, but at the earnest request of Somerville's friends he was permitted to re-engage for one year, on the distinct understanding that it was to be his last chance.

On the 4th June, 1891, he was again drunk and was, by the commissioner, dismissed the force.

CHARGE No. 3.

Now there were other grave cases of this character. Men have been brought before the inspector at places sixty, seventy, aye, one hundred miles away from Regina, at the direction of the commissioner. This has been done in three cases which can be proved, and I believe there are other cases, although I am cognizant of but three. The evidence was sent on to Commissioner Herchmer, and without having the men before him, as is required by the act, without having the accused being brought face to face with their judge, he pronounced sentence. In one case, when Captain Deane was at Regina, a man was sent down from Moose Jaw charged with drunkenness. Mr. Herchmer was going west that day, and what did he do? He actually gave instructions defining what the punishment was to be. Without hearing the charge, he gave these instructions to Captain Deane. When the man was brought before Captain Deane, that gentleman said: While there is no evidence of a character to warrant my punishing you severely; in fact, while there is no evidence to do anything but to dismiss the case, here are my instructions, which I must carry out. Is that a solitary case? No, it is not. I can take you to Calgary, when Superintendent Antrobus was there, and can show you a case in which Mr. Herchmer actually gave directions contrary to the decision of a judge on the previous day. The judge, that is to say, inspector, armed with all the powers and the authority of a magistrate, heard the evidence and decided to inflict a heavy fine on two men, citizens of Calgary. When the men were brought up, the inspector, after trying the case, told the men that he would have to inflict a fine, but, on instructions from Mr. Herchmer, remanded the case until the day following, and then although he had previously intimated what his decision would be, he said, under instructions from Mr. Herchmer: "I am sorry to say I will not have to fine you, but to imprison you, because I have directions to that effect."

This charge I have divided into three parts:—

1. Charges laid against members of the force by order of the commissioner, and sentences awarded by the commissioner on evidence not taken before him.
2. Instructions to Superintendent Deane respecting punishment to be awarded in a case to be tried during commissioner's absence.
3. Directing Inspector Antrobus in a magisterial case at Calgary.

CHARGES LAID AGAINST MEMBERS OF THE FORCE BY ORDER OF THE COMMISSIONER, AND SENTENCES AWARDED BY THE COMMISSIONER ON EVIDENCE NOT TAKEN BEFORE HIM.

The following specific cases were given me by Mr. Davin:—

(a.) Sergeant Ince, "H" Division. Evidence taken before Inspector Sanders. Ince sent from Maple Creek to Regina and reduced to corporal by the commissioner on the evidence.

(b.) Constable Blackmore, charged with using insolent language to Sergeant Spicer. The evidence was taken at Maple Creek and sent to the commissioner at headquarters, who awarded him one month's imprisonment with hard labour, and the sentence was carried out.

(c.) Constable W. H. Martin, drunk at Maple Creek. Had biggest defaulter's sheet in the force. Evidence taken in the same way as in the Blackmore case and sent to the commissioner. Martin being a pet was let off with a fine of \$10.

(d.) E. Donohue was charged at Maple Creek with being drunk. The evidence was taken in writing and sent to the commissioner, who without having seen the prisoner, sentenced him to three months' imprisonment and to be dismissed the force.

(e.) Constable Lynch, charged at Maple Creek. Evidence taken there and sent to the commissioner, who awarded sentence without having seen the prisoner.

As a correct understanding of these cases can be obtained only by a perusal of all the papers, I submit the same as an Appendix "A" to this report.

INSTRUCTING SUPERINTENDENT DEANE RESPECTING PUNISHMENT TO BE AWARDED IN A CASE
TO BE TRIED DURING THE COMMISSIONER'S ABSENCE.

I referred to Superintendent Deane the following extract from *Hansard* :—

In one case, when Captain Deane was at Regina, a man was sent down from Moose Jaw charged with drunkenness. Mr. Herchmer was going west that day, and what did he do? He actually gave instructions defining what the punishment was to be. Without hearing the charge he gave these instructions to Captain Deane. When the man was brought before Captain Deane, that gentleman said: While there is no evidence of a character to warrant my punishing you severely; in fact, while there is no evidence to do anything but to dismiss the case, here are my instructions, which I must carry out.

Superintendent Deane replied as follows :—

“ Referring to extract from *Hansard* debates of 31st March, 1890, and to that portion of Mr. Davin's speech which alludes to myself.

“ I have the honour to state that I have no record nor recollection of the circumstances as alleged, and think that Mr. Davin has been misinformed.

“ A much more probable version of my utterances on the occasion would be something to the following effect :—

“ You have been convicted of drunkenness, and I am sorry that I have no choice but to impose upon you a certain penalty, the minimum of which, even in the case of a first offence, is prescribed by regulation.”

DIRECTING INSPECTOR ANTROBUS IN A MAGISTERIAL CASE AT CALGARY.

I referred to Superintendent Antrobus the following extract from *Hansard* :—

I can take you to Calgary, when Superintendent Antrobus was there, and can show you a case in which Mr. Herchmer actually gave directions contrary to the decision of a judge on the previous day. The judge, that is to say, inspector, armed with all the powers and the authority of a magistrate, heard the evidence and decided to inflict a heavy fine on two men, citizens of Calgary. When the men were brought up, the inspector, after trying the case, told the men that he would have to inflict a fine, but on instructions from Mr. Herchmer, remanded the case until the following day, and then, although he had previously intimated what his decision would be, he said, under instructions from Mr. Herchmer: ‘ I am sorry to say I will not have to fine you, but to imprison you, because I have directions to that effect. ’ ”

He replied as follows :—

“ In reply to your memo. of this date, I have the honour to report :

“ Mr. Davin makes it to appear that I had intimated to the prisoners what punishment I intended to inflict. The facts are as follows :—

“ After having heard the evidence in the division office, I went into the orderly room where the commissioner was, and consulted him as to the punishment. I mentioned that as this was their (Cummings and McLeod) third offence, I thought of fining them each \$400 and costs. He said: ‘ Give them six months' imprisonment. ’ I immediately returned to the division office and sentenced the prisoners to a fine of \$400 and costs and six months' imprisonment each, so did not, as stated by Mr. Davin, remand the cases, nor did the commissioner direct me to do so, nor did I intimate to the prisoners, before consulting the commissioner, what punishment I intended to inflict. I went to the commissioner for advice, and I have no doubt that what he said was intended as such.”

CHARGE No. 4.

RE BUGLER CHAS. BAYLIS.

He has actually attempted to punish without trial for offences not set out in the act at all. One, probably, is as flagrant a case of tyranny as has ever been perpetrated out of King Bomba's realm. There was a concert given at the barracks. A young lad, who sings and plays very well, performed at this concert. The concert was to be repeated in the town of Regina, and the young lad refused to attend. Surely it was not in his papers that he must perform at a concert; nevertheless, when Commissioner Herchmer heard that this young lad had determined not to attend that concert he had him brought before him, and said: “ If you do not I will dismiss you.” In fact, the strougest language which could be used would give no idea of the profligacy of the attempts that

this tyrant has made to construe the act, which he is bound to administer according to its provisions, according to his royal will and pleasure. He thinks there is nothing he cannot do under it.

The commissioner's explanation of this case is as follows :—

Baylis, a boy bugler, who had a very good voice, was in the habit of joining performances and at the last moment refusing to sing, thus spoiling the concert.

The band sergeant complained to the commissioner, who sent for Baylis, gave him a good lecture, reminded him that he was only temporarily employed, and warned him that such foolish conduct would lead him on to some act of insubordination and possibly his dismissal from the force.

The boy accepted the advice given him, improved in his conduct, and on the 18th August, 1890, when he had attained the age of 18 years, the minimum at which constables can be engaged, he was taken on as a constable for a term of five years.

His voluntary engagement for five years is evidence that he did not consider himself as having been very harshly treated by the commissioner.

CHARGE No. 5.

CRAIG CASE.

There was the case of Craig, of which the postmaster general will know something. This man had money deposited in the post office savings bank, and he wrote to have the balance to his credit sent to him. The amount sent to him, he thought, was more than what he was entitled to. He was not sure, but he hardly thought he had so much money at his credit. The moment this was reported to Mr. Herchmer, what did he do? He sent a telegram to have the man arrested and put in prison. For what offence? What offence under the disciplinary clauses of this act—what offence under the law, had he been guilty of? The postmaster general's subordinates at Ottawa had committed a gross error in sending this man another man's account. There was not any great discrepancy, but there was some discrepancy, and it was in favour of the man who drew the money; but the moment Mr. Herchmer heard of it he sent to have him arrested. This man took out a writ of *habeas corpus*, which was granted by Judge Macleod; but what did Mr. Herchmer do again? He actually sent word by telegraph again to have him imprisoned, and actually tried to prosecute him at Lethbridge. The prosecuting counsel, who was practically the counsel of the mounted police, refused to prosecute. And so the thing fell through. I believe Craig intends to bring an action for false imprisonment against Mr. Herchmer, and if he does he will undoubtedly get a verdict.

This case originated through an error in the department at Ottawa.

Members of the force who desire to save their earnings can have the whole or a portion of their pay deposited to their credit in the dominion savings bank through the department.

It so happened that there were two men of the same name, each having a savings bank account. By error, more money was passed to the credit of one than should have been, and when he applied for the withdrawal of the amount deposited by him, with accrued interest, a much larger sum was sent him than should have been. The error was not discovered until Craig No. 2 applied for the withdrawal of his savings, which he found to be much below the correct amount.

Communication was at once made to the commissioner, who, fearing that Craig No. 1 would desert on its becoming known that he had improperly received and retained \$400.71 to which he was not entitled, ordered him to be placed under arrest until Superintendent Cotton from headquarters could reach Fort Macleod, at which place Craig No. 1 was then serving, to investigate the case. Pending communication between Superintendent Cotton and the commissioner, Craig was brought before Judge Macleod on a writ of *habeas corpus* and released. The commissioner then laid an information against Craig before Superintendent Cotton, who, in his capacity as a justice of the peace, issued a warrant and telegraphed to the officer commanding the police at Macleod, as follows :—

“Information laid before me against Craig for unlawfully appropriating money, property of dominion government, &c. Warrant goes to-night. Arrest Craig and remand, unless he gives security for four hundred dollars.”

All the papers on the subject were submitted to the department of justice, and subsequent action was taken on the advice of that Department.

I am positive that the commissioner's action in this matter was prompted solely by a desire to recover the amount incorrectly paid to Craig by the department and improperly held by him.

Subsequent events have proved that his estimate of Craig was correct. He still holds \$295.71 of the amount sent to him through error, and as he is at present serving a term of imprisonment for receiving stolen property since his discharge from the police force, it is not probable that the amount will ever be recovered.

CHARGE No. 6.

CAPRICIOUS JUDGMENTS.

In administering such a Draconian statute as this, a man ought to be a just man; but his judgments are as capricious as the movements of a weathercock. A man may be brought before him to-day for one offence precisely similar to that for which another man may be brought before him to-morrow, and what do you find? The one man gets three months' imprisonment, and is probably dismissed, unless by-and-bye an order comes from Ottawa forbidding the dismissal, as occurred in Somerville's case.

In connection with this charge, I obtained from Mr. Davin, at Regina, the following specific cases for the purpose of comparison:—

Constable Byron and Sergeant Littlefield, and Constables Blackmore and Martin.

Particulars furnished to Mr. Davin and by him communicated to me.

Constable Byron was brought before the commissioner, charged with drunkenness while on guard; Herchmer gave him three months' imprisonment, and sentenced him to be dismissed, the latter being subsequently cancelled.

Sergeant Littlefield, who was also charged with being drunk while on the same guard, was sentenced to be reduced ten places on the seniority list of sergeants.

Constable Byron's offence on the occasion referred to was being drunk on the 25th May, 1889, while on sentry, and leaving his post, for which he was sentenced to three months' imprisonment with hard labour, and to be dismissed from the force on the expiration thereof. He served the imprisonment, but the sentence of dismissal was cancelled by the commissioner.

Byron had previously been punished for being drunk on duty on the line of railway and for disgraceful behaviour in a Pullman car.

Sergeant Littlefield's offence was on the 5th October, 1889. On the occasion of a ball given at the barracks at Regina he was placed in charge of several men to keep unauthorized persons out of the riding school, and generally to watch the building and see that articles which had been lent from the houses of the various officers to decorate and furnish the ball room were not carried off.

During the evening Littlefield was found to be slightly under the influence of liquor, was placed under arrest and brought before the commissioner on the following morning, when, in consideration of the satisfactory manner in which everything had gone off the previous night, and Littlefield's previous good conduct, he was let off with a fine of \$10.

It will be observed that instead of both men being on the same guard there was a lapse of over four months between the events, and the circumstances were quite different.

Particulars furnished to Mr. Davin and by him communicated to me respecting Constables Blackmore and Martin:—

Constable BLACKMORE.—Charged with using insolent language to Sergeant Spicer. The evidence was taken at Maple Creek and sent to the commissioner at headquarters, who awarded him one month's imprisonment with hard labour, and the sentence was carried out.

Constable W. H. MARTIN.—Drunk, Maple Creek. Had biggest defaulter's sheet in the force. Evidence taken in the same way as Blackmore's and sent to commissioner. Martin being a pet, was let off, only fined \$10.

The case of Constable Blackmore is dealt with at length under charge No. 3.

The case of Constable W. H. Martin is also dealt with under charge No. 3.

The commissioner reports that on the direct evidence of Sergeant Ince and Constable McKenzie, a constable of long service, he ordered Constable Martin to be fined \$10. That he considered this fine a severe one under the circumstances, but Constable Martin was a very troublesome man; that had he borne a good character the fine would have been \$5 only.

Evidence that Martin was not a pet of the commissioner is to be found in the following sentences awarded between the 16th and 24th February, 1890.

February 16th, 1890.—Disobeying orders: Fined \$5 and confined to barracks for 15 days.

February 20th, 1890.—Malingering: Fined \$2.

February 21st, 1890.—Improperly dressed on parade: 15 days confined to barracks.

February 24th, 1890.—Direct disobedience of orders: One month's imprisonment.

In connection with the general charge of capricious awarding of punishments, the commissioner furnished me with the following statement:

“With reference to the statements that I am capricious in my judgments when trying defaulters, and that for exactly the same offence two men may get punishments most dissimilar, I beg to submit the following explanation: When two men are brought before me for exactly the same offence, and the previous records of the men are about the same, both men would receive the same sentence, but when one has hitherto been a steady, reliable man, who has never been in trouble before, and the other a man of previous bad character, I certainly punish the latter very much more severely than the good man. As commissioner of police, it is my business to know all about my command, and I take great pains to arrive at the real character of all under me; consequently, when I want a man for a particular service I am able select him at once, and so far successfully.

“In many instances men have clear defaulter sheets who have, however, been brought up on grave charges, which have failed for want of evidence, although there has not been the slightest doubt that they were guilty.

“My custom is to pin these charges in the defaulter's book, and if these men are brought up for a similar offence within a reasonable time, which is clearly proved, I then sentence them to a more severe punishment than I would a man who had never been charged with the same offence before and who hitherto had borne an unblemished character.

“There are always in every barracks, and particularly in recruit depots, men who manage to keep out of trouble themselves, but are the direct cause of getting other men into trouble. It is my custom to warn men of this class that I shall severely punish them if they are brought before me for such offences, and I am justified in giving them a heavier sentence than I would give a quiet, well-behaved man.

“Our being constabulary and not soldiers is overlooked; many crimes that are trivial among soldiers are heinous in a constabulary force. I would ask how long would a constable remain in the dominion police at Ottawa if he was seen drunk in uniform or found guilty of insubordination or disgraceful conduct.

“I consider that I am quite within my rights in expecting as good conduct and discipline in the force I have the honour to command, although we are in the North-West, as in the dominion police or any other constabulary.

“Again, it is charged against me that I sentence prisoners most severely, and then reconsider the case and mitigate the sentence. This is quite true, and I think is greatly to my credit instead of disgrace. A man is brought before me, is convicted on perfectly straight evidence, has nothing to say in his defence, and I have to sentence him. Mitigating circumstances are brought to my notice later on, or it is clearly proved that witnesses were not produced at trial for the defence that should have been. Under these and similar circumstances, I have authority to mitigate a sentence if I consider justice demands it.

“Again, I give a prisoner a severe sentence: his conduct during imprisonment is exemplary, and I remit part of his sentence. In this I am also justified.

"In every case in which I am accused of too great leniency I am prepared to show cause at any time. Owing to my being on bad terms with the editors of several of the newspapers, every prisoner I punish is paraded as a martyr in their columns, and I am held up to public execration ; but I observe that every time a member of the force commits the most trivial indiscretion it is immediately given prominent notice in these same papers as evidence of my incapacity.

"The police are scattered over a country 800 miles by 350, and even with a very high standard of discipline it must be expected that young men far from the control of their officers will occasionally succumb to temptation. The mounted police are unique and there is no organization existing in the world that for variety of employment, extent of territory occupied, opportunities for getting into trouble and responsibility thrown on individuals, compares with this force. These matters are not considered when mounted police are weighed."

CHARGE No. 7.

CONSTABLE GORDON.

Then there was the case of Gordon, who was sentenced to three months' imprisonment and to be dismissed from the force ; but, instead of that, the commissioner was ordered to limit the term of the imprisonment, and Gordon was not only not dismissed, but obtained a position.

On the 3rd August, 1889, this man was sentenced by Superintendent Deane to pay a fine of \$10 and to confinement to barracks for one month, for (1) being absent from stable parade, (2) being drunk in barracks.

On the 14th October, 1889, he was again sentenced to be confined to barracks for 28 days for neglect of duty.

On the 22nd October, 1889, he was admonished for loitering while on duty.

On the 23rd October, 1889, he was sentenced to one month's imprisonment for breaking out of barracks while undergoing 28 days' confinement to barracks.

Owing to this man's general misconduct, the commissioner ordered his dismissal at the expiration of his imprisonment.

On the 18th November, 1889, he was sentenced to a further term of imprisonment for disobedience of orders.

By order dated 7th December, 1889, the commissioner cancelled the sentence of dismissal, in consideration of the fact that his term of service would expire on the 4th January following.

Gordon was a troublesome man, frequently leading others into difficulties from which he personally escaped. He was brought in from patrol work and placed on "straight duty," when he tried to assert himself at his own risk and consequently got into trouble.

An idea of his disposition to be insubordinate may be gathered from the following :—

Mr. Villiers, of the *Graphic*, who accompanied his excellency through the North-West was to deliver a lecture at the police barracks at Lethbridge. Gordon, who at the time was a prisoner, was detailed with others to prepare the barrack-room for the lecture, but he positively refused to assist, on the ground that he could not be lawfully ordered to work for the convenience of a public entertainer.

CHARGE No. 8.

CONSTABLE THOMPSON.

I will give you another instance : There is a man who was guilty of what I consider a very grave offence. It was a man named Thompson. He broke into the commissioner's cellar and stole the commissioner's beer.

An hon. MEMBER. Was it four per cent. beer ?

Mr. DAVIN. I believe it was rather stronger than four per cent. He took the beer away, and not only drank it himself but gave it to his fellow-policemen to drink. What happened? When that man is to be taken before Commissioner Herchmer he gets an intimation from a certain quarter, which it is not necessary for me to define, that he must not punish that man severely. The man is brought before him, and he fines him \$10, and for what? For committing a complicated offence against the statute. It was not merely that he stole the beer, it was not merely that he gave it to other men on the force, but it was also that he broke into his commanding officer's cellar. He committed burglary, and also the grossest breach of discipline. Nevertheless, Commissioner Herchmer only fines him \$10. Next day, we will suppose, a man is brought before him for an offence far more trivial, and he is sentenced to three months' imprisonment and dismissed the force.

The explanation furnished by Commissioner Herchmer upon this case, which occurred in June, 1887, is as follows:

In 1887, it was my custom, whenever the band played in public, to order the band sergeant to send over one of his men to my house for some beer, as there was no canteen then. Constable Thompson, on the occasion referred to by the *Regina Leader*, was sent, and my man being away, I told him to go into the cellar and get six bottles of beer. He returned to the cellar without any special order, and was leaving it with some bottles in his hands, giving as an excuse that the beer he got did not go round the band, and that the order I gave him was merely to get some beer for the band. As I was not positive that I did name any particular number of bottles, and as my desire was to give a glass of beer to each of the band of 16 men, and as all sorts of bottles were used for bottling, I considered that he might have got several claret bottles, when there would certainly have been too little to go round. There was no proof how much he took, and as I had only a very little altogether he could not have taken more than two or three bottles. Under the circumstances, as I did not detect any shortage, and considered I was a good deal to blame myself, I judged that a fine of \$10 was quite severe enough a sentence. There was no burglary about the crime.

CHARGE No. 9.

STAFF-SERGEANT P. MAHONEY.

As to the capriciousness of this officer, let me give another example. Sergeant Mahoney, the drill sergeant, who is one of the most capable men for drilling soldiers on the continent of America, goes before Commissioner Herchmer as a deputation from the sergeant's mess to ask that, instead of taking beer at the canteen, they may have the beer at their own mess. Herchmer breaks into a passion, and says he would not trust one of his sergeants or his sergeants-major, and that they could not have the beer at their mess. "Then," said Sergeant Mahoney, "I will drink no more beer at the canteen." "Come back," says Herchmer, "you are fined \$30," and that is simply for saying that he would not drink beer at the canteen. The other man is fined \$10 for breaking into Herchmer's cellar, stealing most of his beer, and taking it to his brother troopers. That is a great discrepancy in the decisions of this officer, but it is not so astonishing as this, that one man should be brought before him for an offence for which he would get two days' imprisonment in the army, and he is imprisoned for three months and dismissed the force, while another man is brought before him and is dealt with in the way this man Thompson is dealt with.

The regulations regarding the police canteens do not recognize the sale of beer, but the lieutenant governor of the North-West Territories grants permits under which the canteens are allowed to keep a stock on hand for the members of the force.

Adjoining the canteen is a small room which is reserved exclusively for the sergeants, and in this room they are permitted to have beer.

Staff-Sergeant Mahoney, who is an old soldier and an excellent infantry drill instructor, but occasionally insubordinate and given to over-indulgence in liquor, was named, with Sergeant-Major DesBarres, to apply to the commissioner for permission to be allowed to keep beer in the sergeants' mess.

The commissioner declined to grant the request, giving as one of his reasons that it would throw temptation in their way, at the same time reminding them that they had a comfortable room in the canteen, and those who wanted beer could get it there, also promising to allow them to have beer in the mess on special occasions, such as dinners and suppers.

To this Mahoney replied that if the commissioner could not trust his sergeants he ought to get rid of them. The commissioner then said : "Well, I won't allow it, and this must end the matter."

Mahoney then stated in a most insubordinate and insolent manner that he would not buy another drop in the canteen under the present system.

On the following morning, Mahoney was brought before the commissioner, charged with using insolent language, was severely reprimanded, and fined \$30.

When awarding the sentence the commissioner reminded Mahoney that he had on a previous occasion been brought before him for insubordination and reduced in rank therefor.

Inspector Wattam, who was present when Sergeants Mahoney and DesBarres made the application to the commissioner for permission to keep beer in the sergeants' mess, states as follows :—

"As far as I can recollect, you informed them that you could not allow it, and stated your reasons fairly, giving as one reason that it would throw temptation in their way in encouraging drinking, and you also spoke about Special Constable Phasey, the sergeants' messman, who could not be trusted where much drink was about : they had already a very nice room attached to the canteen, and that you would make it more comfortable for them for the winter months. You also mentioned that you would allow them on special occasions, such as giving a dinner or supper, to have what beer they required on such occasions brought over to their mess. But this evidently did not seem to satisfy Staff-Sergeant Mahoney, who appeared to get excited, and insisted upon arguing the point, even after you had distinctly stated that you could not think of letting them have this privilege. He raised his voice, and distinctly said, as he was leaving the office, in a very insubordinate and insolent manner, that he would not drink another drop of beer in the canteen. He was at once placed under arrest."

Sergeant-Major Belcher, who was also present, states :—

"Sergeant-Major DesBarres and Staff-Sergeant Mahoney saw you about having a canteen for the sale of beer in the sergeants' mess. Sergeant-Major Des Barres asked you to reconsider your decision, as he thought that you were under the impression that the sergeants wanted Special Constable Phasey to manage the canteen. You said that was not your impression, but you would have to discharge Phasey if you did allow the canteen. You had carefully considered the petition, and thought it wiser not to allow the canteen in the mess, as the sergeants had a room in the present canteen, which you intended to fix up better for them. Then Staff-Sergeant Mahoney said he wished to say a few words, and went on to say that the lowest force in the world had a canteen attached to the sergeants' mess, and thought it pretty hard that a respectable lot of sergeants like you had here was not allowed it, and a lot more of the same kind of talk. You told him that the canteen in the mess would be the means of getting some of the sergeants into trouble, as they would be able to get beer at all hours, and as they were good non-commissioned officers, you did not want to see them in trouble. After a good deal of argument, in which Mahoney's manner was very insolent, you ordered him to desist from saying more ; but he still persisted, and on leaving your office, although I could not catch the words he made use of, I should judge by his manner and tone that they were of a threatening nature, and you ordered him to be placed under arrest."

Sergeant-Major DesBarres, who was also present, states :—

"I was in the orderly room with Staff-Sergeant Mahoney at the time of the question of canteen in sergeants' mess. I spoke to you, and told you that I thought you were wrongly informed about the matter, as your objections were to Special Constable Phasey keeping the canteen. You said 'No,' and that you thought the matter over again, and that you thought a good deal of your sergeants here, and that they were a splendid lot of men, but some of them addicted to drink, and that a canteen where sergeants could get it all the time would lead only to getting them into trouble. I never said another word, but Staff-Sergeant Mahoney asked your kind permission to have a few words to say. You said : 'Well, what is it Mahoney?' 'Well, sir, as you said yourself that us sergeants are a splendid lot of men, you should give us permission to keep a canteen in

the sergeants' mess. This force, where you yourself admit us to be the smartest lot of sergeants, you should at all events try us.' You then replied: 'Now, Mahoney, I made up my mind and I will not change it. *I will not trust one of you* (the commissioner deems having used the words in italic), and I will not hear another word about it, that will do.' The answer Mahoney gave was, 'A sergeant who could not be trusted was not fit to be one.' You called out: 'Now, that's enough.' Mahoney then answered that he would not buy another drop in the canteen under the present system. The Regimental Sergeant-Major Belcher, placed Mahoney under arrest, but did not put him in the guard room.'"

Mahoney's term of service expired on the 1st June, 1890, when he re-engaged for a second term, but on the 23rd of the same month he was reduced from staff-sergeant to sergeant for being under the influence of liquor. On the 19th November, 1890, he was again punished for being drunk, and on the 17th March, 1891, he was reduced from sergeant to constable for leaving church parade without permission and absenting himself from barracks, until brought back under influence of liquor.

CHARGE No. 10.

INSOLENT, ARROGANT AND OPPRESSIVE CONDUCT.

There is another point of view from which Commissioner Herchmer's conduct has to be looked at. He occupies a very important position, one of the first positions in the North-West, a position that any man in the country might be proud to fill. It is a position of great responsibility. Now, if his outbreaks of violent temper only related to the police it would be a grave thing, it would be a grave cause for enquiry, but he has to deal with the public in many ways. His authority and his duties touch the people of the North-West Territories at many points, and the people of those Territories have had to endure his injustice, they have had to endure his insolence, to endure his violence of temper, they have had to endure his overbearing arrogance. Even if everything were right in the force, yet if it could be shown that to the people of that vast territory, where he occupies so important a position, his demeanor is of a character offensive, insolent, arrogant, oppressive, it would be a grave cause for enquiry, and, if the enquiry established it, full ground for dismissal.

On the morning of my arrival at Regina, viz., the 19th July, I called upon N. F. Davin, Esq., M.P., and asked him to furnish me with any particulars which would enable me to identify several cases referred to by him in parliament, but in connection with which he had not quoted names or dates.

Mr. Davin replied that he, of course, could not appear before me; that he had merely mentioned in his place in parliament certain circumstances which had been called to his attention by his constituents and others, to whom he would intimate that they should now make their charges formally to me, in order that they might be investigated.

I remained at the hotel the greater part of the day and evening, but no complainants called.

On the evening of Sunday, the 20th July, Mr. Davin informed me that he had seen several of those who had complained to him, and had intimated to them that it was their duty, both to themselves and to him, to formulate their charges before me, in order that full enquiry might be made.

The next issue of the *Regina Leader*, viz., that of the 22nd July, contained the following:—

"ENQUIRY INTO THE CHARGES AGAINST COMMISSIONER HERCHMER.

"Mr. Comptroller White is now in the Territories, ready to receive evidence respecting the charges which were made in *The Leader*, and subsequently by Mr. Davin in parliament, against Commissioner Herchmer. Mr. White arrived here on Saturday evening. He has gone west, and will visit Calgary, Medicine Hat, Lethbridge, Macleod, and subsequently Battleford and Prince Albert. He will be back here in eight or ten days. He will stay at the 'Lansdowne,' so as to be away from the barracks atmosphere—and his instructions are to investigate as fully as is possible by a departmental enquiry.

“Those officers, non-commissioned officers and men who complained of their commissioner owe it to themselves, to the force and to those who took up their complaints, to see Mr. White and make their charges and substantiate them. Those citizens who complained of the bearing of the commissioner to themselves, to the public, should also see Mr. White and give him facts.

“The fact that the commissioner is a changed man is no reason for holding back from assisting Mr. White. The change in his bearing to the officers and men and the public would never have taken place if Mr. Davin had not brought the matter before parliament, and something is due to Mr. Davin by those for whom he has made the force enduring. Nor need any complainant have any fear. Sir John Macdonald is superintendent-general, and he will see that nobody who assists Mr. White shall suffer.

“We confess we should have preferred a commission with power to compel witnesses to give evidence. Such an enquiry would have been exhaustive, and its report one way or the other would have been authoritative and final. Such an enquiry would have probably been granted but for Mr. Blake. But we hope to see manliness displayed sufficient to give value to Mr. White's enquiry.

“Some of those bragging scribblers whose literary stock in trade is finding fault with Mr. Davin, say ‘now is his opportunity.’ They are evidently utterly ignorant that a person making charges would have no *locus standi* before a departmental enquiry.

“During my temporary absence from Regina, the commissioner caused the following letter to be published in the *Regina Journal* :—

“A LETTER FROM COL. HERCHMER.—HE ASKS HIS ACCUSERS TO SUBSTANTIATE THEIR CHARGES.

“Commissioner Herchmer writes as follows in the *Regina Journal* :

“NORTH-WEST MOUNTED POLICE HEADQUARTERS,

“REGINA, 23rd July, 1890.

“SIR,—Under the heading of ‘Inquiry into the charges against Commissioner Herchmer,’ an article appears in the *Regina Leader* of 22nd July, which contains the following: ‘The fact that the commissioner is a changed man is no reason for holding back from assisting Mr. White. The change in his bearing to the officers and men and the public would never have taken place if Mr. Davin had not brought the matter before parliament; and something is due Mr. Davin by those for whom he has made the force enduring.’

“I take exception to this misstatement, as no change whatever has taken place in me, nor have I been in any way influenced by Mr. Davin's action; and I defy my traducers generally to substantiate any one of the charges or insinuations they have made.

“If there is any honour in my calumniators, let them come to the front and try to prove their charges, or confess that actuated by petty spite and other private causes they have allowed themselves to be led into a conspiracy to damage the reputation of an officer who has always endeavoured to do his duty impartially.

“I am, sir, yours obediently,

“L. W. HERCHMER, *Commissioner N.W.M.P.*”

Comment upon this indiscreet challenge during the progress of a departmental inquiry is unnecessary.

I returned to Regina on Friday, 1st August, and spent the greater part of the morning of that day with Mr. Davin, who gave me the names and brief particulars of several cases which had been indirectly referred to by him in parliament.

I endeavoured to see Mr. McCaul, the mayor, and Mr. Mowat, two gentlemen whose names Mr. Davin had given me as being most likely to formulate complaints; but it was a municipal holiday, and I was unsuccessful. After consulting with Mr. Davin, I decided to go to Prince Albert and Battleford and take in Regina on my return.

I returned to Regina on the night of the 10th August, and remained at the hotel on the 11th, 12th and 13th.

The Regina *Leader* of the 12th August contained the following :—

“ DEPARTMENTAL ENQUIRY.

“ Mr. White will be at Lansdowne hotel all day to-morrow (Wednesday) and the forenoon of Thursday. Any person having complaints to make respecting Colonel Herchmer should call on him.”

No complainants called until the afternoon of the third day, when Mr. McCaul, the mayor, and Mr. Mowat, merchant, presented themselves.

Mr. McCaul had no complaints to make. Mr. Mowat complained that the messman of the officers' mess had been threatened by the commissioner with dismissal if he did not purchase his supplies from the canteen. The papers in this case will be found under charge No. 26.

The object of my mission was well known throughout the Territories, and I gave those whom I met, either while travelling or at towns or stopping places, every opportunity of formulating charges.

At Medicine Hat, Dr. Olver referred to a dispute he had had with the commissioner respecting an account for professional services, which, after much correspondence, had been paid at a considerable reduction under the amount originally rendered. Dr. Olver expressed himself quite satisfied with the manner in which the account had been finally settled, and stated that he would have accepted the compensation offered him in the first place had he been approached by the commissioner in a proper manner. Upon my asking him what he meant, he said that the commissioner opened their conversation by telling him that he was too hoggish, and that his account would not be paid, and that the commissioner's tone and general bearing was tyrannical and irritating in the extreme.

I visited Banff on the 23rd July, and remained there 24 hours. No complaints.

I arrived at Calgary on the 24th July, and remained there until mid day of the 26th. The object of my visit was well known, but no specific charges were made.

I called upon Senator Lougheed, to enquire whether he knew of merchants or others who had complaints against the commissioner. He replied that he was not aware of any who would be disposed to formulate complaints, nor did he know of the existence of any, beyond a very general feeling of annoyance at the brusque manner in which they were treated by Commissioner Herchmer in business relations. Reference was casually made to the case of “ Ede vs. Herchmer,” which has since been decided in favour of the latter, when Senator Lougheed expressed the opinion that the trouble was the result of the commissioner's extreme excitement, and his undertaking to perform a duty which he should have assigned to a constable.

I arrived at Fort Macleod on the 28th July. No complaints were made to me by merchants or others outside the barracks. I personally called upon Mr. Wood, of the *Macleod Gazette*, and Mr. Haultain, a member of the North-West council.

Mr. Wood stated that he had no complaints to make, as he did not consider that any which he might formulate could be properly investigated except under oath; that everything which had appeared in the *Macleod Gazette* had been stated on representations which had been made to him by various persons, some of whom he feared would be reluctant to prove their statements even under oath. He promised to send me a list of cases, with names and facts sufficient to enable me to identify and investigate them.

I remained at Macleod until the evening of the 29th July, and during the afternoon of the last-mentioned date I again called at Mr. Wood's office, but he was out. I wrote him a short note from Fort Kipp, to which he replied dated 31st July, as follows :—

“ MACLEOD, 31st July, 1890.

“ MY DEAR MR. WHITE,—I duly received your note written from Kipp. I am sorry I was out when you called, but my time was so taken up with court proceedings that I was unable to attend to the matters you speak of. I am unable at the present writing to state the cases, but am confident of being able to give you several, unless I have been very badly misinformed. This takes time, however, and I am afraid I shall not be able

to let you have them while you are in Regina this time. However, I shall try and have them by the time you return to Macleod.

"I am sending you by this mail copy of to-day's *Gazette*, with letter marked and editorial regarding my feeling toward the police. I can assure you of the genuine character of the letter, which was written by a policeman, not an officer. I would also refer you to a letter in the *Manitoba Free Press* of 28th July, which I knew nothing about until after it was written and posted.

"I shall write you fully at a future date, giving you my reasons for not attempting to bring evidence in support of the charges I have made against Mr. Herchmer. I shall also bring witnesses to prove that Mr. Herchmer very freely expressed his opinion of the rotten state of the force when he took command to commercial travellers on the train. In the meantime,

"Believe me to be yours very sincerely,

"C. E. D. WOOD."

I submit also letters from myself to Mr. Wood, dated 18th August, from the latter to myself dated 30th of same month, and a communication from Dr. Kennedy, dated 31st August:—

"REGINA, 18th August, 1890.

"DEAR MR. WOOD,—Thanks for your note of 31st ultimo, also for the marked *Gazette*.

"I find that I shall not be able to go to Macleod at present, but expect to be in the west again shortly and will then pay you another visit. In the meantime, I shall feel obliged if you will send to me at Ottawa the names of the cases to which you referred when I saw you last, and which you hoped to be able to procure.

"I want to make my report as complete as possible, and, as I mentioned to you, I am prepared to investigate any case of which I may be furnished with sufficient particulars to enable me to identify the parties and locate the circumstances.

"Believe me yours truly,

"FRED. WHITE.

"C. E. D. WOOD, Esq., Fort Macleod, N.W.T."

(*Private.*)

"MACLEOD, 30th August, 1890.

"MY DEAR MR. WHITE,—Dr. Kennedy is writing to you by this mail regarding Mr. Commissioner Herchmer's remarks about the force when he first took over the command. I am leaving for Banff early to-morrow morning, and will be gone for a month; otherwise I would write you more fully now in regard to matters connected with your visit. I have explained to you the difficulties connected with getting at the bottom of these charges under existing circumstances. As you could not take evidence under oath, and as you could not compel the attendance of witnesses, my hands were practically tied. Knowing the vindictive character of Mr. Herchmer's disposition, and having had ample evidence that he would hound a policeman out of the force who gave evidence against him, I would not ask any man in the force to make a voluntary statement in support of my charges, and thereby subject him to what would be a terrible risk. I can assure you that the fear of the consequences is so great in the majority of cases that nothing short of compulsory attendance and close examination under oath would elicit the whole truth. As you are aware, I referred to numerous cases of gross misuse of power on the part of Mr. Herchmer, but did not feel at liberty to give you names. I saw over Mr. Herchmer's own signature, and in his own handwriting, straight, strong and convincing proof of dictation to a magistrate. The gentleman who has this very compromising letter in his possession told me that I could only mention his name, and call upon him if I found myself in a corner. He was fearful of the consequences. I could produce other letters covering other charges, if this same fear of the commissioner did not stand in the way. I am more anxious than ever to have an opportunity of proving my charges before a proper tribunal. I have no fear of the result. I have no fear of

being able to prove even far more serious ones than I have yet made, but am now contemplating making. If the man can hold his position when the really terrible truth is known, then he can do very much more than even a Russian official could do.

"Although I have marked this letter private, I merely did so in order that you might be the first to receive it. I mean it as an official communication, and assure you that you are at liberty to use it in whatever way you may see fit.

"Yours sincerely,

"C. E. D. WOOD."

"MACLEOD, ALBERTA, 31st August, 1890.

"SIR,—I have been busy and away from home since seeing you, and have therefore been unable to write, as you requested, regarding the evidence asked for by Mr. Wood.

"The occurrence referred to took place over four years ago, and it is therefore difficult to give the exact words and phrases used by Mr. Herchmer, but I will endeavour to give you a general idea of the nature of the conversation. I was on my way up from Ottawa in May, '86, and Mr. Herchmer came in the train at Regina during the night, and I met him for the first time the next morning. After getting through some business which I had with him, I had very little direct conversation with him, but during the day I was in and out of the smoking compartment, and both there and in the body of the car I could not avoid hearing his remarks and general conversation addressed to anyone who cared to listen. He said in effect that the whole force, and more especially the post at Regina, had been left by his predecessor in a rotten and disorganized condition, spoke freely of the cleaning up and re-organization he was engaged in, and discussed the character of officers in the force. I cannot be absolutely certain, but I think he mentioned the fact that Inspector Likely was the only officer at Regina who knew his drill. These remarks were not confided in a low voice to the ears of an intimate friend, but were spoken loudly, and in the hearing of commercial travellers, general passengers and employés of the railway. I am under the impression that Major Stewart and T. Johnson, of Galt Bros. were among the passengers. After hearing Mr. Herchmer airing his sentiments in this way, I avoided his vicinity as much as possible, for Col. Irving had been and was then a friend of mine, and besides being indignant at his account, it produced a painful impression on me that a man occupying the position of a gentleman should make such a cad of himself.

"It is only fair to add, in order that you may estimate the value of the little I have to tell, that I am not and never have been favourably disposed towards Mr. Herchmer. That has not induced me to exaggerate, however, and I would have no hesitation in saying what I have said under oath.

"Yours truly,

"G. A. KENNEDY.

"FRED. WHITE, Esq., Ottawa."

Mr. Haultain stated that he did not desire to be considered a complainant; that any statements which he had made had been made on the floor of the legislative chamber at Regina, viz: Interferences with justices of the peace, and the circular respecting vagrants. These matters I have dealt with separately under charges Nos. 19 and 20.

I arrived at Lethbridge on the 30th July. No complaints.

I visited Prince Albert on the night of the 3rd August, and remained there two days. Received no specific charges, but gathered from conversations with gentlemen whom I met that there was some feeling of annoyance in connection with the local distribution of patronage, such as contracts for hay, firewood, &c.

I arrived at Battleford on the night of the 7th of August, and remained there until morning of the 9th. A number of the business people of the town, together with several settlers engaged in agricultural pursuits, called upon me. Some complained in a general way, of delay in the payment of accounts for farm produce; also that the manner in which tenders were invited did not give the small farmer an opportunity of competing.

After listening to their representations, I suggested certain changes in the mode of calling for tenders, and also with regard to the payment of accounts by "progress estimate," which appeared to meet their wishes, and I left with an impression that they were satisfied that any cause for complaint had been removed.

In conclusion, I may say that I visited all the principal towns with which the police are connected, except Edmonton, and there no complaints were made to me, beyond those above mentioned.

INDIVIDUAL COMPLAINTS OF OFFICERS OF THE FORCE.

I gave every officer present at the various posts that I visited, an opportunity of making complaints; subordinate members of the force were all informed in their barrack rooms, or on parade, that if they had any complaints they could prefer them directly to myself. I also personally asked the non-commissioned officers in charge of detachments on outpost duty, whom I met during my travels, whether they had any complaints.

At Regina there were no specific complaints from either officers or men, although there was abundant evidence of soreness and the absence of cordial feeling towards the commissioner. Several officers stated that they had had grievances in the past, but they had been settled or forgotten, and could not now be revived.

Between Regina and Calgary I was joined on the train by the officers stationed along the line of railway. I asked them individually whether they had complaints. Superintendent Jarvis reminded me that he had had some little misunderstanding with the commissioner, which he had reported to me on a previous visit; that explanation had corrected the misunderstanding and he had no complaints. The other officers gave direct answers, "No complaints."

At Banff, no complaints.

At Calgary there were no direct complaints, but Superintendent McIlree thought that upon one occasion he had received unmerited censure from the commissioner during a periodical inspection of his post and command.

He did not wish his remarks to be considered as a complaint.

The assistant commissioner stated that he laboured under a constant sense of humiliation, owing to the anomalous position in which he was placed by the commissioner, who allowed him to exercise no authority, and who, on several occasions, had reprimanded him in the presence of other members of the force, and of strangers, in a manner which he thought undignified on the part of the commissioner and humiliating to himself.

At Fort Macleod, Inspector Wood complained of the severity of the commissioner's decisions in several cases affecting himself, and appeared to be under the impression that the commissioner personally disliked him, and lost no opportunity of punishing him.

No other complaint were made. It was apparent to me, however, that there was an absence of respect and loyalty towards the commissioner.

At Lethbridge I received no complaints from either officers or men.

At Prince Albert, several non-commissioned officers and constables appeared before me with various requests, the majority of which could have been settled by application direct to their immediate officer. Nothing in the shape of a complaint of arbitrary or unfair treatment was made.

Superintendent Perry stated that he had at times been treated and spoken to by the commissioner, in the presence of others, in a manner which he considered uncalled for, unjustifiable and humiliating; that his differences has been settled by personal interview and explanation, and that he merely mentioned the matter to me in order that he might not be considered a coward, and unwilling to prefer charges if he still had unsettled grievances.

At Battleford, I received no complaints from either officers or men. Several non-commissioned officers and constables appeared before me, but only in connection with matters of ordinary details.

CHARGE No. 11.

THE COMMISSIONER'S CONDUCT AT BANFF.

I charge him with tyranny to officers and men. Now, his tyranny to the officers in the Territories is gross as a mountain, open, palpable. I will give you an instance of the way he treats these officers, to show how he is fitted to preserve their respect. When the governor general went up to Banff a ball was given in his honour at the Canadian Pacific railway hotel. After the ball Mr. Mathews, the proprietor of the hotel, gave a supper to a number of gentlemen, some of them well known to the head of the government. Mr. Buchanan was one, Mr. Baker, I think, another, Mr. Pottlington another, and a number of civilians; but amongst the civilians were a few officers. Colonel Herchmer went to Mr. Mathews and said that he thought they were disturbing the governor general. Mr. Mathews said: "Well, I do not see how they possibly can, but I suppose if they are disturbing the governor general he will send us word." Colonel Herchmer came in again in the most violent wrath, thundered at the door, and swore at his officers, and told them to leave the table, and that if they did not leave they should send in their resignations.

The statements respecting this regrettable affair are somewhat contradictory.

It appears that after the conclusion of the ball on the occasion of the visit of his excellency the governor general, the manager of the Banff hotel invited a number of gentlemen, including several police officers, to supper.

That during the supper, one of the guests, by way of enlivening the company, indulged in a series of war-whoops, which were heard by the commissioner, who had retired to his room, and, fearing that the noise, which appeared to come from the bar-room, would disturb their excellencies, who were sleeping in the hotel, he dressed and left his room, with the object of locating and suppressing what he supposed to be a disturbance.

The commissioner having discovered that the noise proceeded, not from the bar-room, but from the supper-room, endeavoured to send a message to Mr. Mathews, and, being unable to persuade a waiter to take the message, knocked at the door until it was opened, when he saw police officers at the table, and, catching the eye of Inspector Macpherson, called him out of the room. What then occurred is stated by the commissioner in the following words:—

"I called Inspector Macpherson into the passage, and asked why the police officers did not put a stop to this unseemly row. He replied that they were the guests of Mr. Mathews and could not help it. I then told him that if the disturbance did not cease forthwith I should be under the painful necessity of ordering all the police officers out of the room. Mr. Macpherson was quite sober, but undertook to argue the matter, and I told him very plainly that if the noise did not stop, I should at once carry out my threat, and, if not obeyed, should place the officers under arrest, as I did not propose to allow his excellency to imagine for a moment that officers of the police were parties to a drunken orgie, which was the only explanation that could be put on the affair.

"Inspector Macpherson then asked me if the officers could stay if the noise ceased. I said, 'Most certainly;' and he returned to his supper. The manager then came out, and I told him plainly that he had induced their excellencies to be guests of the hotel after the ball, that he knew they had to rise at an early hour, and that it was most unseemly that such disgraceful proceedings should take place while they were in the house. He appeared very indifferent, and said he could not help it. * * * I told him that if the row did not stop suddenly I should stop it myself."

Inspector Macpherson's statement to myself is as follows:—

"In compliance with your order *re* 'the Banff difficulty,' I have the honour to make the following statement:—

"On the night of the governor general's ball, six of the officers of the mounted police were invited to a supper in the hotel by Mr. Mathews, the manager. While seated at the table, Mr. * * * gave us a rather noisy comic song, during the singing of which two of the waiters opened the door in answer to a knock and the commissioner called out: 'Come here, one of you,' and repeated it.

"I went to the door and the commissioner ordered me to tell the officers to leave the room, and if they refused to comply I was to place them under arrest. I explained

to the commissioner that it was not the officers who were making the noise, and was supported in this by Mr. Matthews.

"I then asked the commissioner if we might remain if the noise stopped, to which he gave his consent.

"On returning to my seat I told the officers what the commissioner had said to me, and we finished our supper."

Although these statements practically agree, there appears to have been considerable misunderstanding on the part of the other officers as to what actually occurred between the commissioner and Inspector Macpherson, or, rather, as to the language used by the latter in relating the occurrence to his brother officers, some of whom appeared to have considered themselves under arrest days afterwards, notwithstanding the fact that they had been constantly in the commissioner's company in the interim, and in the performance of duty, without the subject being referred to.

Mr. Matthews, the manager of the hotel, gave me the following account of the affair :—

Commissioner Herchmer gave considerable assistance, both before and during the progress of the ball, and everything passed off most pleasantly.

A number of gentlemen, including several police officers, were asked by Mr. Matthews to have supper with him after the conclusion of the ball. He hesitated about asking the commissioner, owing to his seniority in rank, and finally decided not to do so.

The supper was laid for twelve, in a small room immediately adjoining the dining room, the governor general's room being at the extreme end of one of the wings, remote from the dining room.

While at supper, one of the guests, who happened to be in a hilarious mood, attempted to imitate the Indian war-whoop, the noise of which reached the commissioner's bed-room, when the latter went to the supper room and called out one of the police officers. What passed between them, Mr. Matthews could not state, but the officer returned to the supper room evidently annoyed at the commissioner's manner towards him.

The commissioner's manner and attitude when he entered the supper room were such as to place his officers in a most humiliating position in the eyes of the servants and waiters.

Mr. Matthews thought that the commissioner's proper course would have been to have spoken to him in the first place, as he was in charge of the hotel, and those who were at supper were his guests. That the war-whoops which had attracted the commissioner's attention were certainly noisy, but, in his opinion, could not have been heard by the governor general, and that he had heard noise quite as great in the Windsor hotel, Montreal, at the winding up of dinner parties and social events.

Having seen the officers of police who were present on the occasion referred to, and several of the other gentlemen who were also there, I am of opinion that while it was quite within the commissioner's jurisdiction to order officers of police who were misconducting themselves while in uniforms to their rooms, and, failing that, to place them under arrest, his excited manner and loss of temper had an irritating rather than a conciliatory effect.

I lay no stress whatever on the alleged placing under arrest, it being quite clear to me that the commissioner's expression was simply intended as a warning of what would happen if the unseemly noise continued.

CHARGE No. 12.

INTERFERENCE WITH MEDICAL OFFICERS.

Now, sir, I charge that he interferes, so as to cause grave suffering with the conduct of the medical officers in the hospital. It has been represented to me on authority that I cannot question for a minute that he will interfere actually with the prescriptions of these medical officers. One case was brought before me in which a few lemons were ordered for patients who were in the hospital, and who were, I suppose, somewhat feverish, and needed these lemons; and what did he do? He

drew his pen*through the prescription of the medical officer. So he is not only capable at a bound of being an equipped soldier, but he thinks he is an Esculapius as well.

The commissioner acknowledges having occasionally reduced requisitions for "medical comforts," such as substituting lime juice for lemons, the latter being perishable, and very costly in the North-West.

He positively denies having at any time refused to order actual medicines called for by the requisitions of the medical officers.

There has been, is at present, and, I have no doubt, will continue to be in the future, more or less friction between the commissioner and the senior medical officer, respecting the number of men to be withdrawn from regular duty for attendance at the hospitals of the force.

The commissioner contends, and I think correctly so, that in an organization composed as the police force is, of young men of robust health, amongst whom there is very little sickness, the hospital non-commissioned officers and attendants should be drilled and called upon to perform a certain amount of ordinary police work, either when there are no patients in the hospital or when those there are convalescent, and do not require the constant care of attendants. The difficulty is to decide when and to what extent the men can be spared from hospital duty, and from this arises most of the friction to which I have referred.

CHARGE No. 13.

CANTEEN AT REGINA.

I have already dwelt on cases that can be proved in support of this charge. I now charge that he has taken a course that was against the efficiency of the force, that was contrary to the interests of the North-West, in establishing a canteen there, and in the manner in which he established it. How did he establish that canteen there? It is not the ordinary canteen of soldiers' quarters. They had every mortal thing at that canteen. I am not going to dwell on that point, but what I dwell on principally is, that he has inaugurated a system whereby the man who runs the canteen is certain to have large custom and no bad debts. And why? A man goes there, and if he has the cash he pays for his beer; if he has not the cash he gets a ticket. There is no limit to the tickets given to the men, as I am in a position to prove, and sometimes when a man goes to receive his pay at the end of the month he finds he has nothing to draw. That is a serious matter, for it strikes severely at the efficiency of the force. Of course, one of the objects of Commissioner Herchmer in establishing the canteen was, I think, to keep the men in barracks. That may have been a good object, but the effect has been that an enormous quantity of beer has been drunk, as may be seen by reference to the returns of the lieutenant governor, which show that large quantities of beer have gone in for consumption by the mounted police. I am not dwelling particularly on what, after all, was a thing to be condemned, namely, that he made the canteen a general store—I think that was objectionable and undesirable—but I dwell on the fact that the management of the canteen was of a character not conducive to the efficiency of that force.

Prior to November, 1888, there were no recognized canteens in connection with the mounted police. Efforts had been made from time to time to establish small shops within police barracks, at which tobacco, pipes, canned goods, &c., were kept, but these attempts generally resulted in failure and frequently in financial loss to members of the force.

In November, 1888, the commissioner entered into an agreement with Mr. W. F. Buchanan, of Winnipeg, for the establishment of a permanent canteen at Regina.

Merchants and others living at Regina complained of this arrangement, (1) on the ground that it was not in accordance with the wishes of the members of the force, (2) that the supplies would be shipped direct from Winnipeg, thus depriving merchants of Regina of trade to which they considered themselves entitled, and for which they could not compete, owing to the favourable terms and privileges secured to Mr. Buchanan, and (3) that if it was the determination to have a canteen at the barracks on the terms granted to Mr. Buchanan, the privilege should have been extended to one of the merchants of Regina, instead of importing a man from Winnipeg.

N. F. Davin, Esq., M.P., called the attention of the Right Honourable Sir John Macdonald to the circumstances, and after consideration had been given to the various representations, the commissioner was instructed to give reasonable notice to Mr. Buchanan that his lease of the canteen would be terminated.

Mr. Buchanan accordingly surrendered possession, the canteen was reorganized under regulations approved by Sir John Macdonald, and placed under the management of a committee of members of the force.

The canteen committee is composed of one officer nominated by the commissioners, the senior sergeant-major *ex-officio*, one corporal and two constables elected by the men. No credit for beer is allowed to any one, and credit for other articles is allowed only from pay-day to pay-day. The canteen committee buy from whomsoever they please, and the profits are distributed monthly as the committee may decide.

The advantages of this canteen are beyond question. The men are enabled to get much better value for their money. They escape the temptations to which they were previously exposed by too frequent visits to town. The profits derived from sales furnish their messes with many articles which greatly increase their comfort, and their recreation rooms with billiard tables and other means of amusement.

With regard to the charge that the sale of beer in the canteen is demoralizing, and induces the men to squander their pay, a non-commissioned officer is always on duty during the hours when beer is sold, and no one is allowed to drink to excess. A man is thus enabled to take his glass of beer regularly, knowing that he can, within prescribed hours, purchase a reasonable quantity.

Prior to the sale of beer being allowed it was no uncommon occurrence for men to visit town immediately after pay-day, and within a very limited period squander their month's pay, and spend the greater part of the new month either in the guard-room or within barrack limits as punishment for over-indulgence.

The beer sold is what is known as four per cent.

Only members of the force are permitted to purchase at the canteen; it is simply a co-operative store, managed by members of the force entirely for their own comfort and benefit.

When last at Regina I carefully inspected the stock of goods kept for sale, inquired into the system of management, examined the books and minutes of committee meetings, and am satisfied that it is a great boon to members of the force stationed there.

The success at Regina has caused canteens to be started at other posts, and I think that every encouragement should be given them.

CHARGE No. 14.

EXCLUSION OF FRENCH CANADIANS FROM THE GOVERNOR GENERAL'S ESCORT.

I say that he uses the institution, of which he is the head, as if it were a private affair. Instances of that kind can be given *ad infinitum*; but I do not regard this, of course, as so serious a charge as the other charges. I charge him with yielding to his prejudices against certain nationalities. I am in a position to say, I have it on undoubted authority, that when the governor general was there he issued orders that no French Canadian officer was to be allowed to take any prominent part; and if there is an enquiry we will summon officers in the force to depose to that fact. The commissioner gave directions that during the visit of the governor general no French Canadian officer was to be allowed to take any prominent part—he was, in fact, to be supreme.

The French Canadian officers who were at Regina on the occasion of the visit of his excellency the governor general were Superintendent Gagnon, who commanded the depot division, and Inspector Huot, who had arrived from Prince Albert with a detachment of police from that place.

During the review by his excellency Superintendent Gagnon commanded his own division, both mounted and dismounted.

Inspector Huot led his own sub-division on dismounted parade in the barrack square, but, being orderly officer, was not told off for mounted parade, which was outside the barrack square.

He represented that he had travelled nearly 200 miles, and thought it hard that he could not fall in with his men on mounted parade. To meet his wishes, the commissioner ordered a senior officer, who had travelled 120 miles for the same purpose, to

exchange his mounted duty, for which he had been detailed, for Inspector Huot's orderly duty within barracks, thus giving decided preference to a French Canadian officer.

Inspector Bégin, who was attached to the division having headquarters at Maple Creek, was, at the time of his excellency's visit, employed escorting money for the payment of Indian annuities, and, by chance, happened to be at Swift Current when his excellency passed there.

One French Canadian officer, viz., Inspector Bradley, was stationed at Lethbridge; but, inasmuch as no escort was furnished there, no officer, either English or French, was required for special duty.

So far, I think the facts are clearly against the charge of unfavourable discrimination against French Canadians.

With regard to the Macleod district, all arrangements were left by the commissioner in the hands of the assistant commissioner and Superintendent Steele.

Superintendent Steele placed Inspector Starnes, the French Canadian officer stationed at Macleod, in orders to command the gun detachment which was to fire the salute, but that officer asked to be relieved of this duty, which was taken then by Inspector Macpherson. Subsequently, it was found that an additional escort would be required, to which Superintendent Steele detailed Inspector Starnes.

Later on, when the assistant commissioner arrived in the district, he placed Inspector Macpherson in orders for the escort to which Superintendent Steele had assigned Inspector Starnes, and it is alleged by Inspector Wood, through whom the order was communicated, that the assistant commissioner gave as his reason for so doing that the commissioner did not wish any French Canadians to appear prominently during his excellency's visit.

The following is the explanation furnished by the assistant commissioner :—

"I beg to report that in my opinion there must be some misunderstanding on the part of Inspector Wood; otherwise I cannot account for his statement.

"I do not see how I could have made the remarks imputed to me.

"It is not customary for an officer in giving orders to make explanations, and there was no reason for my making any remarks to Inspector Wood.

"The commissioner had not given me any orders about the employment of French Canadians, nor had he even stated or intimated to me that he did not wish any French Canadians to appear prominently during his excellency's visit.

"By instructions from the commissioner, I had authority to make all arrangements for the escorts, and I accepted as correct the detail of officers as made by Superintendent Steele, except in substituting Inspector Macpherson for Inspector Starnes in the duty of escorting the ladies from Macleod to Lethbridge, and my reason for so doing was that Inspector Macpherson was already acquainted with the ladies, whereas Inspector Starnes was a total stranger, and I considered it would be pleasanter for all concerned, particularly to the ladies, to have an acquaintance to look after them."

CHARGE No. 15.

THREATENING A MAGISTRATE.

Mr. DAVIN. I charge him with forcing magistrates to act contrary to their duty, and contrary to the finding before them. So it was, I believe, at Maple Creek, for when there was only a timber partition between him and the judge, who was hearing evidence, he said: "If you do not go for that man I will go for you." That was a good illustration of what was practically done in a good many cases.

I have not been able to identify the case or the circumstances referred to in this charge.

CHARGE No. 16.

CONSTABLE GARRET.

I charge him with illegally awarding punishment, and doing so on evidence not taken before him. I have already explained what I mean by that expression. I have shown what the act re-

quires ; and I have shown that he has not only done what I now charge, but that he punished for offences not within the act. I will give an instance ; it is a trifling instance in some respects, but a straw can show the direction of the current. A man named Garret was painting in the greenhouse. He did not know that the floor of the greenhouse was not to be painted, and he allowed one or two drops of paint to fall on the floor. At eleven o'clock he went over to his quarters for some purpose connected with his business. In came Commissioner Herchmer. He at once sent for Sergeant Hopkins, and said to him : " Make out two charges against Garret, one for leaving his work earlier than he should do, the other for messing the greenhouse." It would be difficult to find " messing the greenhouse " in the act ; but these were the two charges. He added : " Have these charges put before me, and I will fine him a couple of days' pay, and that will teach him to be more particular. The idea of a man saying, before he had heard any explanation, what he was going to do, shows, of course, that he is destitute of the very seminal principle of justice.

A corporal who examined the work reported that the painting had been done in a very careless manner, and that an unnecessary quantity of paint had been allowed to fall on the floor and on the door and window casings.

A staff-sergeant, who also examined the work, reported that the painting had been done in the most careless and slovenly manner ; that the floor was spattered with paint from one end to the other ; that in painting round the door frames the brush had been carried past the return two inches on to the face of the frame, and from the window rails two or three inches on to the glass.

Garret, who received extra pay for painting, was, in the first place, brought before his immediate commanding officer, and subsequently before the commissioner, who fined him two days' pay for his carelessness.

CHARGE No. 17.

TRAVELLING ON A PASS AND POCKETING THE RAILWAY FARE.

I do not think there can be any misconduct in the case of a man not having power over his own movements in having a pass on a railway. But there is when a man can order himself two or three times a month to Calgary, and he has a pass, and he pockets the railway fare and payment for travelling expenses ; and I venture to say that if there is an enquiry into that feature of Commissioner Herchmer's conduct it will be found out that he added from \$1,500 to \$2,000 to his pay.

With respect to this charge, I have not considered myself called upon to do more than satisfy myself that the commissioner's absence from headquarters was justifiable and necessary in the interest of the public service ; that the charges made by him were reasonable, and that the expenditure was certified by him as having been incurred upon government service.

The commissioner never leaves the headquarters of the force without reporting his departure, or subsequently reporting the object and result of his mission. He is a most energetic man, and personally visits the numerous divisional headquarters and outposts more frequently than did his predecessor, and possibly has made many trips which another, occupying the same position, would have assigned to subordinate officers.

I do not think that it would be in the public interest to hamper the movements of one whose jurisdiction extends over so large an area, and whose responsibilities are so great, as he only can judge where his presence is most necessary at any particular time.

The regulations require that whenever possible, conveyance per railway shall be obtained by transport requisition, but there are obvious reasons why this rule should not be applied to the commissioner and other inspecting officers, whose movements should not be made known in advance.

CHARGE No. 18.

Another charge is one which, probably, the house may not think is serious, and it is one which I do not think is as serious as some of the other charges, but the people of the North-West consider that some attention should be paid to it, namely, that the commissioner, to use their own language, is down on local traders. He can take the prices of jobbers at Winnipeg and compare them with the prices of the retail merchants at Prince Albert or Regina, and he can show a difference ; but that difference is delusive, because you have to add the expense of transport, and in the auditor general's report of last year you find among the items : freight, \$18,000 ; transport, \$421 ; waggon

hire, \$303; Canadian Pacific railway, on account of transport, \$30,000; or a total of \$49,313. The greater proportion of that amount must have been paid for freight. The freight rate is from 75 cents to \$1 per 100 pounds, say for the railway up to the north, and, of course, the local tradesman can get as good freight rates as Mr. Herchmer; but he preferred, for some reason, to concentrate all his custom in the hands of the jobbers at Winnipeg. I will not discuss the statements that the people make without authority; they have hinted this and that, but, in my opinion, they have not given any proof, and if there is no proof against a man it would be a ridiculous thing to press the charge.

The subject of this charge has been frequently discussed, with a view to purchasing locally to the greatest extent, and I think the only ground on which complaints could now be made is with regard to miscellaneous hardware supplies.

It is desirable that these should be of uniform pattern and quality, whilst the quantities required would not justify local traders in keeping stocks on hand specially for police custom. This might be done by guaranteeing the custom to a particular firm at each place, but that would bring charges of favouritism from others in the same town who deal in similar articles.

I hope during the season of 1891-92 to be able to adopt a new system with regard to the purchase and distribution of miscellaneous supplies that will give local traders better opportunities for competing.

CHARGE No. 19.

INTERFERENCE WITH JUSTICES OF THE PEACE AND SUBORNING TESTIMONY.

I charge Commissioner Herchmer that he has actually tried to suborn testimony when these charges were put forward. After the charges had been made and published he issued, on the 11th November, 1889, the following circular to his subordinate officers, who are also magistrates:—

“A statement has been made in the *Regina Leader* that I have on various occasions interfered with officers of the North-West mounted police in the execution of their duties as justices of the peace, using my position as commanding officer in influencing their decisions as J.P.'s. Will you inform me officially whether I have ever interfered with you in such particulars, stating occasions, etc.

“L. W. HERCHMER.

“HEADQUARTERS, REGINA, 11th Nov., 1889.”

I might tell the house that more than three of those officers refused point blank to return the answer that he expected to force from them by this circular, and from which, in case of an enquiry, he could manufacture evidence beforehand. I say that this is a very serious affair.

On the 11th November, 1889, the commissioner issued the following circular to the officers of the force:—

“A statement has been made in the *Regina Leader* that I have on various occasions interfered with officers of the North-West mounted police in the execution of their duties as justices of the peace, using my position as commanding officer in influencing their decisions as justices of the peace. Will you inform me officially whether I have ever interfered with you in such particulars, stating occasions if any.”

All officers who were justices of the peace replied to this circular; 22 stated positively that the commissioner had never interfered with them in connection with their duties or decisions as justices of the peace, and 4 gave qualified replies.

When in the North-West, in August last, I personally saw 16 of the 22 officers who had replied to the commissioner's circular to the effect that he had never interfered with them, and gave each an opportunity of verifying or modifying his statement. Each one answered that he had nothing to add or withdraw from his previous statement. Since then I have seen 2 more of the 22, who gave me similar replies.

I also saw 3 of the 4 justices of the peace who gave qualified replies. Superintendent Gagnon and Steele had nothing further to add. Superintendent Antrobus modified his previous statement. As I was unable to meet Inspector Constantine, I addressed a letter to him, which, together with his reply, is attached to his first letter.

I submit herewith as an appendix B. to this report copies of all correspondence on this subject.

CHARGE No. 20.

INSTRUCTING JUSTICES OF THE PEACE.

Circular respecting Tramps.

Attention was called to this circular by Mr. Haultain, a member of the legislative assembly for the North-West Territories. All correspondence on the subject is submitted as an appendix C. to this report.

CHARGE No. 21.

CONSTABLE VAN PITTUIS.

The very first time anything was said against him in any subject that I could control was when he did a most high-handed act. There was young man in the police force engaged to a young woman, and on the very eve of the marriage he was ordered off, because Commissioner Herchmer disapproved of marriages in the force. I at once telegraphed down to the authorities here, and ultimately we had that settled and the marriage took place.

Van Pittius, who was employed in the commissioner's office, was suspected of divulging information obtained in that office; he was therefore removed to ordinary duty, and shortly afterwards was transferred to Maple Creek. He had previously applied for permission to marry, which the commissioner refused to have anything to do with, for the reason that he could not prevent the man marrying. Shortly after his arrival at Maple Creek he applied for a pass to go to Regina to get married, but married constables are very undesirable members of the force, and Van Pittius being almost a recruit, had no claims to special consideration; the commissioner therefore refused the pass. Mr. Davin then intervened by communication direct to Sir John Macdonald, urging that the leave asked for might be granted. His request was complied with.

CHARGE No. 22.

CONSTABLE EDGERTON.

It was alleged that this man was sentenced by the commissioner without being given an opportunity of defending himself or making any explanation.

The commissioner reports that Edgerton had a pass to visit the town of Regina — that he overstayed his pass 25 hours, was tried in the usual manner, was asked if he had anything to say, and he replied that he had not. That the commissioner was then informed by one of the officers present that Edgerton, who had only been in the force a few months, had previously been dismissed from the mounted infantry school at Winnipeg as a bad character, whereupon the commissioner sentenced him to dismissal from the mounted police.

After the sentence had been awarded, the adjutant of the force appealed to the commissioner to reconsider his decision and give Edgerton another chance, provided he behaved himself thereafter. To this the commissioner consented; the man was again brought before him on the following day, and when the commissioner stated that he would remit the sentence of dismissal, Edgerton replied that he wished his sentence to remain as it was.

Edgerton has since applied to be taken on again.

CHARGE No. 23.

Extract from *Leader* of 5th November, 1889:—

HERCHMER COLLECTOR OF A CANTEEN.

An outrageous case which has occurred shows Herchmer as forcing men to pay liquor bills. The canteen has been a curse. That 4 per cent. beer is poisoned with drugs. It knocks a man all out

as the worst Montana whiskey will not do. It creates a thirst for it as no other liquor will do. No matter how cold it foams right up, not, I need not say, with the proper head of beer. A man named Henry Vincent Davis joined the force 26th September, 1887. He had a staff appointment the whole time. No previous misconduct was against him. Captain Deane fined him once \$2 for a little horse play, splashing a brother constable with water. In August he was admonished for an alleged false statement about a sirloin of meat. It has since turned out his statement was perfectly true. The whole of August this man was boozy, more or less, under the influence of this 4 per cent. beer. He drew his savings out of the bank and must have spent \$100. He was drunk on the last day of August, and given two months by Major Cotton. As soon as the commissioner came to Regina it was read out in orders that he was dismissed the force. On the 9th of September he was marched to the orderly room to receive the pay for August. His pay was \$21.70; \$18.66 was read out for canteen stoppage. Now we have to give orders to the canteen on printed tickets when we go on tick, and the ostensible rule is that the canteen man shall not give more than \$5 tick. Davis said he would not pay \$18.66 unless his tickets were produced. Captain Gagnon looked for tickets, and could find tickets for only \$9; so Captain Gagnon closed the book. Next day Herchmer had the man before him and said: "So you won't pay \$18.66? I wouldn't trust you across the room. I'll stop it." Davis could say nothing. If he said a word he would get extra imprisonment. There was \$2.25 stoppage for a pair of overalls by the quartermaster. So that when this man, whose fault was caused by temptation placed in his way by Herchmer, was turned out of barracks, he had 69 cents. He had to go from man to man, begging a few clothes—and this man, if there was any difficulty, would be ready to risk life and limb for queen and country, for he is a fine strapping young Englishman

Extract from a letter from the Commissioner, dated Regina, 28th January, 1890.

"In reply to your letter, dated January 24th, 1890, and extract from *Leader*, of 5th November, 1889, re 'Herchmer Collector of a Canteen,' I have the honour to inform you that during the months of July and August ex-Constable Davis was cook in the sergeants' mess, and while so employed catered for a cricket lunch. On the strength of this he got credit at the canteen, with a promise to pay as soon as he received payment. He did not pay, and getting into prison before August pay-day, the canteen manager presented his account to Superintendent Gagnon, commanding "depot division." Constable Davis acknowledged the debt, but declined to have it stopped, saying that he would pay it himself. Superintendent Gagnon brought him before me, and after fully investigating the case, as he acknowledged the debt, I ordered Superintendent Gagnon to pay account out of money due him for pay. He demurred, and said he would pay it himself. I told him that he had a very bad reputation; had been caught stealing, and purchasing stolen goods, and was suspected of other frauds; that I would not trust him to pay an account, most of which if unpaid would be charged to the cricket club, who had already paid him. The account was paid, and he signed his pay receipts, and he made no complaint, and later on begged money from me in Winnipeg. You are already in possession of papers clearly showing the sort of man ex-Constable Davis was.

Constable Davis was paid \$10 per month extra by the sergeants' mess, and the amount he spent at the canteen bar for beer and cigars during August was \$7; his accounts for ham, groceries, &c., was \$12.26, and the items of this account he never disputed.

Memo.—This occurred prior to the establishment of the present canteen.

F. W.

CHARGE No. 24.

Another case showing Herchmer's interest in collecting beer money:—A. Campbell, regimental shoemaker, always had plenty of money. Gagnon read out to him \$1.80 for canteen money. He said he did not owe it. He was brought before Herchmer and asked if he was willing to pay it. He said not. He knew that Herchmer would be down on him, and he deserted. He was brought before the commissioner, who gave him 12 months. At the same time, Greenway was brought before him for the same offence, and got only 30 days—11 months extra for disputing a beer account with Herchmer. The canteen, Mr. Editor, has been a curse, a temptation and a snare.

(Extract from letter from the commissioner dated Regina, 28th January, 1890.)

Constable Campbell disputed his canteen account, \$1.80, claiming that he only owed \$1. Superintendent Gagnon brought the canteen manager before me, and ordered Constable Campbell to parade at orderly room next morning. Before 11 a.m. he acknow-

ledged to Superintendent Gagnon that he owed the money, and asked to have it stopped, and when brought before me he stated that he had forgotten the 80 cents, but that now he perfectly remembered the debt, and wished to pay it.

Shortly after this he deserted, as it was found out that he was a ruffian by some of the men, and was found secreted in a house in town some days afterwards. This is the constable who denied that he had a wife in Scotland, and she afterwards interceded with you for his release, stating that he had helped her along.

The case of Greenway was entirely different. He suffered from itch when he joined the force, and was reported to be of unsound mind later on, and was under observation. One night he walked off after first post, and after wandering over the country he walked into the town station about breakfast time on the second day, and gave himself up.

I gave him 30 days' hard labour, and finding that he was not insane, but merely slightly foolish, I dismissed him as unfit for police duty. If he had turned out insane the usual course would have been taken and he would have gone to the asylum.

Memo.—This occurred prior to the establishment of the present canteen.

F. W.

CHARGE No. 25.

PETITION—BOARD OF TRADE.

Boycott at Regina.

One of the subjects I should have dealt with, but I thought I had made a sufficiently strong case, was this: That Commissioner Herchmer has established in Regina a boycott. The board of trade of Regina sent to the first minister within the last few days, a petition in regard to this officer, in which it stated what is true, because the leading men in the board of trade know well it is so, that the first time I moved in the matter against Commissioner Herchmer I did it at their pressure and at their suggestion, and the moment the board of trade, which embraces all the prominent merchants in Regina, passed a resolution against a certain course that Commissioner Herchmer took, what did he do? He boycotted every one of them except one. It will please the honourable gentlemen of the opposition to know that the exception is a prominent Reformer, who had not taken any part in the proceedings, and the commissioner would not allow any of his men or officers to go to any of the stores to buy, and a regular boycott was established.

The petition in question was forwarded to Sir John Macdonald by the secretary of the board of trade, Regina, on the 3rd April, 1890, the transmitting letter being as follows:—

“I have the honour, by direction of the council of the Regina board of trade, to forward you a copy of a petition praying that the canteen at the Regina barracks may be closed up at once, as it is very detrimental to the merchants of this town, some of whom are almost dependent upon the barrack trade for their living.”

And the following was the petition:—

To the Right Honourable Sir John A. Macdonald, G.C.B., Ottawa.

We, the Regina board of trade, beg to bring before your government again the subject of the canteen conducted in the North-West mounted police barracks at this place, and beg to place before you the following reasons why we consider that, to use your own expression in parliament last session, “the game is not worth the candle”:

1. As merchants striving for a livelihood, we consider it unjust and unwise for our government to foster and encourage a business in our midst.

2. We work, pay taxes and assist to support the police force, and consider it an infringement on our rights as citizens for the government to set up and establish a general store, such as the so-called canteen has developed into, to compete with us.

3. We are under the impression, also, that it is not lawful for government employes to engage in trade and commerce of any kind whatever while under government employ or pay.

4. We understand that the commissioner, Inspector Moffat, Sergeant-Major Belcher, Sergeant Ellerton, and others, are drawing additional pay for managing the

institution, which is a menace and an infringement upon our rights as citizens and indirect supporters of the force.

5. We ask why, if the canteen is such a benefit to the force, it is not established in other parts of the territories? We venture to reply that it is because they could not have the personal supervision of the commissioner, and so provide the consequent remuneration to him.

6. To show that we view this institution in our midst as unjust, we must point out to you the advantages it enjoys. There are no expenses whatever for rent, fuel, light, wages, loss by bad debts, taxes, &c., consequently goods can be sold at a small advance on cost (canteen prices are continually quoted by policemen and are demoralizing trade); therefore, the Government are unconsciously and unnecessarily interfering with the rights of the citizen, a proceeding we here rebel against.

7. Also, we desire to point out to you that this institution is no mere canteen. It is a general store, where nearly all kinds of merchandise are sold, and latterly a trade enjoyed by our merchants of about \$5,000 per annum of supplying the men's messes has been taken in hand by the canteen managers.

8. We regret that the canteen is upheld by the authorities on the plea of discipline. It is instead a standing disgrace to say that in a country almost prohibitory our government should encourage and foster a beer saloon right in the midst of a body of men whose duty it is to confiscate spirituous liquors, to say nothing of the temptation it is to those young men, many of whom are sent to this country by parents thinking they are sending their sons out of the reach of liquor.

9. If for the past thirteen years the force could get along without such an institution, and if all the other posts in the territories can be run without a canteen, why is it necessary in Regina? Our suspicion is that it was started and is maintained by the commissioner and one or two pet officers to serve their personal ends.

10. We here wish to state that the first objections to the canteen were instigated by this board of trade, through Mr. Davin, M.P., and to deny that it was personal on his part; and in proof of this we here wish to place on record and bring to your notice the manner in which the merchants of this town are boycotted of any patronage accruing from having the force in our midst. Ever since the establishment of the canteen, and our objection to it over a year ago, we have lost the bulk of the patronage of men and officers in Regina, and the commissioner's patronage for supplies, &c., which are almost wholly purchased in Winnipeg or elsewhere than in Regina, thus further proving the vindictiveness and tyranny of the man, so often charged against him.

Our prayer is that you would place at the head of the North-West mounted police here a man who will have sense enough to attend to his military duties, and who will not stoop to interfere with trade and its relative gains, and with a change of command we are satisfied that the complained-of general store would disappear.

And your petitioners will ever pray, &c.

DANIEL MOWAT, *President.*

R. J. STEEL, *Secretary.*

REGINA, N.W.T., 3rd April, 1890.

It subsequently transpired that the petition in question had been passed, not by the board of trade, but by the council of the board of trade, of whom there were nine present; five voted for the petition and four, including the mayor of the town, against it.

On the 24th April, 1890, the following resolution of the board of trade was forwarded by the secretary to the *Manitoba Free Press*, Winnipeg:—

To the Editor of the Free Press.

SIR,—I have been instructed by the council of the Regina board of trade to forward you the enclosed resolution, and to request that you will publish the same.

REGINA, 24th April.

“Resolved that the Regina board of trade hereby retract the statements and charges against Mr. L. W. Herchmer in the 4th, 5th, 9th and 10th paragraphs and prayer of the petition lately presented by the board to the right honourable Sir John A. Macdonald,

respecting the canteen at the North-West mounted police barracks, Regina, the said statements and charges being groundless, and this board hereby apologizes to the said Mr. L. W. Herchmer for having made the same."

It will be observed that this resolution retracts the statements contained in the 10th paragraph and the prayer of the petition presented to Sir John Macdonald respecting the canteen, the said statements and charges being groundless.

As paragraph 10 of the petition contained the information upon which Mr. Davin based his charges of boycotting, the retraction of that paragraph and apology from those from whom it emanated render departmental action unnecessary.

With reference to paragraphs 1, 2, 3, 6, 7 and 8 of the petition, which were not retracted, and which relate to the canteen, I beg to submit the following remarks:—

Canteens are recognized and encouraged throughout the British service, and it is the unanimous opinion of those who are best able to speak from experience that nothing does more to promote contentment and good feeling than a well-managed canteen, to say nothing of the advantages to the men, who are enabled to purchase their requirements on the co-operative principle. The articles kept in the canteen for sale are purchased by the canteen committee and sold only to members of the force, who are thus enabled to spend their own pay in such manner as they may deem best.

All articles which constitute the government issue are purchased under contract and issued according to the authorized scale. The division into which the force is divided have their own messes, and if they choose to supplement the government rations by contributing daily from their own pay to their respective messes they surely should be allowed to purchase where and from whom they consider they can obtain the best value for their money.

With regard to the complaint that the canteen is a general store, I have ascertained that in many of the regimental canteens in the British service the variety of articles is almost unlimited, and includes not only the requirements of the men, but also those of their wives and families.

With regard to the statement that it is a standing disgrace to say that in a country almost prohibitory our government should encourage and foster a beer saloon right in the midst of a body of men whose duty it is to confiscate spirituous liquors, I beg to remark that there are numerous places in the town of Regina where beer can be and is sold, and that if the canteen were closed it would be merely transferring the temptation and the trade from the barracks to the town at very much increased cost to the members of the force.

CHARGE No. 26.

MESSMAN W. MOSS.

On Thursday, 14th August, the mayor of Regina, Mr. J. A. McCaul, and Mr. D. Mowat, called upon me at the hotel at Regina.

The mayor had no complaints.

Mr. Mowat complained that the canteen was an infringement on the rights of merchants of Regina, who had thus been deprived of trade to which he considered they were legitimately entitled.

He stated that quite recently Moss, the caterer or messman of the officers' mess, informed him that the commissioner had told him that he must buy his supplies at the canteen at the barracks, and that if he did not do so he would dismiss him; that Moss replied that he would buy where he liked, and does buy from merchants in town.

He further stated that the messman of the sergeants' mess had been broached frequently by the sergeants to induce him to buy his supplies at the canteen.

On the 16th August, I sent for the caterer of the officers' mess, W. Moss, and obtained the following statement from him:—

"I receive \$12 per month from each officer and their rations, and for that have to board them and pay tradesmen any difference in the cost of maintaining the mess.

"The commissioner came into the ante-room on the night of the 23rd May, the night before the sports were held. He said: 'How is it you do not trade at the canteen?' I replied: 'I trade where I can get my things the best and the cheapest.'

"He said: 'You can get your things as cheap in the canteen as you can down town.'

"I replied that I could not.

"He asked what it was that I could not buy as cheap in the canteen.

"I then named a number of articles, and mentioned the prices of some, which were 6 or 8 cents cheaper down town than in the canteen.

"He said: 'You draw your wages from here, and you will have to lay them out here or you will have to clear out.'

"I remonstrated, and said that it was very hard to be compelled to deal at the canteen when I could get my things cheaper down town.

"He said: 'You must make up your mind as to what you are going to do.'

"He told me to see the sergeant of the canteen, and ask him to give me a list of prices.

"I went to the sergeant several times, but could not get a list from him.

"I saw the commissioner, and told him that the sergeant had not supplied me with the list, as I had asked him. The commissioner said he would see the sergeant about it, but I have never heard anything more.

"I still buy my supplies, some in town and some in the canteen, wherever I can get them best and cheapest."

SERGEANTS' MESS.

With regard to Mr. Mowat's complaint that Phasey, the messman of the sergeants' mess, had been broached frequently by the sergeants to induce him to buy the supplies at the canteen, Phasey stated to me as follows:—

"The sergeants have never in any way interfered with me with regard to the places where I should purchase my supplies. The sergeant in charge of the canteen has occasionally told me of things he had in store, and their prices, but nothing more, and I buy wherever I can get the best articles at the most reasonable prices, some in town, some in the canteen, and some from farmers."

Memo. by the commissioner on the mess case:—

REGINA, 18th August, 1890.

W. Moss is a special constable, and receives \$25 per month as waiter and caterer in the officers' mess. He was personally engaged by me in Winnipeg, and the mess at the time being large, he was allowed \$10 for his wife to cook and \$5 for washing table linen.

The mess decreased in number, and could not afford to pay a cook extra, and a new arrangement was made, which did away with the cook's wages, Moss to still receive \$12 per month from each dining member, in addition to double rations for each officer and single rations for himself. His wife was far advanced in pregnancy, and he agreed to get another cook whenever she was too ill to cook. His wife was confined, and for six weeks the mess was run in a most negligent manner; everything was dirty, and the dining members complained daily of the poorness of the diet. Moss provided no assistance, and to enable the officers to live, a constable was told off to assist Moss. I ordered a mess meeting, and a resolution was passed to dismiss Moss, but, owing to sympathy for his wife he was not dismissed.

On 24th May, immediately after the sports, I went into the ante-room. Moss came in to arrange the papers, and remarked: "Those were first-class sports, sir." I said: "Yes, but no thanks are due either you or the officers' mess." He asked why, and I replied that we could not have given the prizes except for the canteen, which he never spent a cent in. He replied that he bought his goods by the dozen in lots, and got a cheaper rate in town. I asked him if he ever asked for a price list by the dozen, he replied he had not. I then said: "This is the only mess in barracks that does not deal at the canteen, and considering that the band is mainly supported by the canteen fund,

and that it played at mess whenever called upon, and that he, Moss, made all the profit out of the mess, including beer, wine, cigars, &c., he should certainly buy some of his supplies in the canteen, if he could get them as reasonable as elsewhere; besides, his buying in the canteen would save the horses running to town so often."

He replied that if the canteen would quote dozen lot prices he would deal there. I told him that I would see that they did. Moss afterwards told me that the sergeant had not as yet quoted prices.

I have taken no action in the matter since, and do not know where he buys.

His story is a deliberate falsehood.

L. W. HERCHMER, *Commissioner*.

SUMMARY.

CHARGES.	REMARKS.
1. Commissioner instructed in manoeuvres by Sergeant Mahoney.	Mahoney, being an infantry drill instructor, could not have coached the commissioner in mounted drill.
2. Improper sentencing of Constable Somerville.	Somerville deliberately broke barracks after being warned not to go to town. He was tried on a written charge, and being an incorrigible character, was sentenced to dismissal. The mistake in this case was the cancellation of the dismissal, as proved by subsequent events.
3. (a.) Charges laid against members of the force by order of the commissioner, and sentences awarded by the commissioner on evidence not taken before him.	<p>A sergeant who has been lax in the performance of the duty of his rank was ordered to headquarters and reduced to corporal, quite within the commissioner's authority.</p> <p>Officers in command of men away from headquarters submitted to the commissioner evidence taken in disciplinary charges and asked advice or instructions.</p> <p>The commissioner instructed as requested on the points submitted, and also ordered additional charges to be laid against others, who, as the papers disclosed, ought to have been charged in the first instance.</p> <p>Up to this point the commissioner was undoubtedly correct, but he went further, and instructed what punishments were to be inflicted if found guilty.</p>
(b.) Instructions to Superintendent Deane <i>re</i> punishment to be awarded in case to be tried during commissioner's absence.	<p>Perusal of the correspondence (Appendix A) will show that prompt and decisive action was necessary to maintain discipline at Maple Creek.</p> <p>It has not been possible to identify the particular case referred to, but Superintendent Deane states that Mr. Davin must have been misinformed with regard to any statement made by him.</p>
(c.) Directing Inspector Antrobus in a magisterial case.	Inspector Antrobus states that he voluntarily went to the commissioner for advice and accepted what the commissioner said as such, not as instructions.
4. Bugler Charles Bayliss.	I do not think any fault can be found with the commissioner's action in this case.

16. Constable Garrett. Was paid extra for painting, and deserved fining for carelessness and leaving his work.
The commissioner should not have expressed himself previous to trying the case, but it was not one requiring much consideration, beyond the usual formalities of trial and sentence.
17. Travelling on a pass. The various "trips" made by the commissioner were justifiable in the public interest. The charges made were reasonable and the expenditure was certified as having been made upon government service. My inquiries did not extend beyond these points.
18. Local patronage. There may be some ground for this complaint, so far as relates to miscellaneous stores, particularly hardware.
It is desirable that uniformity of pattern and quality should be preserved, which cannot be done when entire dependence is placed on the stores in the settlements.
We are endeavouring to adopt a new system, that will give local traders better opportunities of competing.
19. Interferences with justices of the peace. Twenty-two justices of the peace say positively that the commissioner never interfered with them.
One says he advised when consulted but did not instruct.
One says the commissioner asked reasons for dismissing a certain liquor case, as he wished to be in a position to give an explanation if called upon.
One says he is sure there was no intentional interference, but the wording of certain telegrams might be construed as directions.
20. Circular respecting vagrants. The commissioner states that it was not his intention to have this circular considered as instructions to officers of the force who were justices of the peace, but to all members of the force as police officers.
He acknowledges that the wording of the circular was faulty, and should have read "severe sentences being *advocated*," instead of "severe sentences being *inflicted*."
The object of the circular is explained by the following paragraph:—
"The presence of these tramps means, eventually, outrages among isolated families of settlers, and probable "holding up" of railroad trains."
21. Constable Van Pittius. Marriage, particularly of constables, is discouraged. Until late years married men were ineligible for the service.
Wives and children are an incumbrance in a force such as the mounted police.
At the request of Mr. Davin, the commissioner was instructed to allow Van Pittius leave to go to Regina to get married.

22. Constable Edgerton.

This man slipped into the force without the fact of his having been dismissed from the mounted infantry becoming known. On hearing that he had been so dismissed the commissioner dismissed him from the police. The man should never have been admitted to the mounted police.

23. Herchmer collector of a canteen, "Constable Davis."

This occurred before the canteen was re-organized. Davis undoubtedly owed the money to the canteen,—in fact, had received the larger portion of it from the cricket club, for which he had provided lunch. The commissioner was quite justified in making him pay up.

24. Canteen collection No. 2. Constable Campbell.

This is another exaggerated case of hardship. The man owed the canteen \$1.80, of which he disputed the 80 cents, but shortly afterwards remembered that the charge was correct, and paid up.

25. Petition board of trade, Regina boycott.

The board of trade subsequently retracted and apologized to the commissioner for all the statements and allegations contained in the petition, except those relating to the establishment of a canteen at the barracks and consequent loss of custom which they previously enjoyed.

The advantages of a well-managed canteen are too well known and recognized to require any comment.

26. Messman W. Moss.

The commissioner's conversation with the messman was ill-judged. He knew that strong feeling existed in certain quarters against the canteen, and that charges of interference by him had been made indiscriminately.

If any communication to the messman was considered necessary it should have been made by the secretary or president of the mess.

This was the case where zeal for the general welfare, and impulsiveness, led the commissioner into an undignified controversy with a very humble subordinate.

It will be observed that, with few exceptions, I have endorsed the commissioner's action in the various matters on which complaints were based.

In my opinion, his unpopularity, which cannot be denied, is due almost exclusively to infirmity of temper, and lack of tact in dealing with the public and those under his command.

A more zealous officer is not to be found in the public service. His sole desire, I am positive, is to keep the police force in a state of thorough efficiency. He has done much to improve the discipline, internal economy and general character of the force; but he is excitable, his judgments are sometimes hasty, too frequently given on first impressions and in advance of full enquiry, thus placing him in awkward positions, from which he cannot retreat without loss of dignity.

He is rather given to saying more than is necessary when passing judgment or calling attention to laxity, in discipline or other shortcomings, thus engendering bitterness which outlives the disciplinary punishment.

In a force scattered over so large a territory, self-reliance and courage to act promptly is all-important. An unmerited or hasty reprimand for slight errors of judgment in such cases is discouraging, and checks energy.

No other force that I have heard of has such varied duties as the North-West mounted police. They have been, and are still, the pioneers of everything that is necessary to bring a wild and undeveloped country into a state of civilization, perform-

ing the duties of every branch of the public service, until the development is sufficient to warrant the various departments appointing officers of their own to take over and assume charge of their respective duties.

Is it then to be wondered at that the officer commanding a force so scattered in numbers and distances, and with such varied duties, should occasionally give orders or decisions which may not be found correct by the experts or professionals of the departments to which the service particularly belongs.

I think very little stress should be laid upon technical omissions in a new country, so long as the main object is accomplished and injustice is not perpetrated, and for that reason would consider it unfair to blame the commissioner for errors of form, provided the general result is satisfactory.

Commissioner Herchmer positively denies having ever tried a constable except on a written charge, and states that he has only heard of one case of such irregularity being committed, and that immediately on the matter coming to his knowledge he remitted the sentence.

In the course of my enquiries my attention was called to an order issued by him on the 23rd May, 1887, in the following words:—

“In all cases where members of the force are tried for permitting prisoners to escape, a certified copy of the evidence taken at the trial must be sent to the commissioner who will award punishment.”

This establishes a direct case of intended interference in the awarding of sentences on members of the force not tried before him, but I am not aware of any instance in which the order was complied with, and from the commissioner's surprised manner when I called his attention to it, I am under the impression that he had quite forgotten its existence.

I have the honour to be, sir, your obedient servant,

FRED. WHITE, *Comptroller.*

DEPARTMENTAL REPORT OF CHARGES PREFERRED AGAINST THE
COMMISSIONER OF THE NORTH-WEST MOUNTED POLICE.

APPENDIX A.

Sergeant Ince, Constables Blackmore, Martin, Donohue and Lynch.

Sergeant Ince.

NORTH-WEST MOUNTED POLICE HEADQUARTERS,
REGINA, 13th August, 1890.

Memorandum *re* reduction to corporal of regimental No. 695, Sergeant Ince.

The evidence against regimental No. 1284, Constable Martin, was submitted to the commissioner for advice by Inspector Sanders. This evidence proved that Sergeant Ince had neglected to place Constable Martin under arrest at "last post," on 6th September, 1889, when under the influence of liquor, but waited till next morning.

Sergeant Ince had been reported for slackness on several previous occasions, and was reduced by the commissioner as unfit for sergeant.

L. W. HERCHMER, *Commissioner.*

Blackmore.

"MAPLE CREEK, 27th November, 1888.

"SIR,—I have the honour to enclose herewith charge and evidence against regimental No. 2030, Constable E. Blackmore, of this division.

"As Constable Blackmore's statement differs materially from the evidence taken, I consider it advisable to submit the matter for your consideration and for instructions as to the punishment to be awarded.

"I have, &c.,

"W. D. ANTROBUS, *Supt. Commanding.*

"The Commissioner North-West Mounted Police, Regina."

"NORTH-WEST MOUNTED POLICE,

"MAPLE CREEK, 26th November, 1888.

"Against regimental No. 2030, Constable Blackmore, of "A" division, having committed a breach of discipline in that he: 1st. Did use insolent language to Staff-Sergeant Spicer when warned for stable picquet; 2nd. Disobey an order given him by that non-commissioned officer; 3rd. Used insolent language to the sergeant-major; 4th. Call Staff-Sergeant Spicer a son of a bitch and a bastard.

"W. D. ANTROBUS, *Supt. Commanding Division.*

"Evidence:

"SERGEANT-MAJOR DESBARRES,

"STAFF-SERGEANT SPICER."

EVIDENCE.

Reg. No. 1027, Staff Sergt. SPICER, F. W., sworn:

Last evening (25th inst.) I was given the detail for stable picquet by the Sergeant-Major. Constable Blackmore was one of the picquet. When I warned Constable Blackmore he asked me by whose authority he was warned for stable picquet. I told him I supposed by the usual authority. He replied "They are piling it on to me too d——d thick around here." After some further talk on his part I told him he had better go and see the sergeant-major. He left and returned to me, and said the sergeant-major had said you were to place Ford on picquet. I said: "Ford is in Regina." He replied: "I said, Forbes; can't you understand English?" I told Blackmore to go down and warn Constable Forbes that he would have to do second relief of picquet. I afterwards went to him at stables and told him not to forget to go and warn Forbes.

At about 6.40 I went over to the barrack room and saw him sitting at the foot of his bed. I asked him if he had warned Forbes for picquets, as I had told him to do. He said he did not know that I had wanted him to warn Forbes for picquet. "I am not doing troop orderly's work, anyhow." I then told him to go down at once and warn Forbes.

As Blackmore had not gone down just before picquet mounting, I took him to the sergeant-major's office and told the sergeant-major the facts. The sergeant-major placed Blackmore under arrest. Constable Blackmore then said that "this was no orderly room, that if he was to be tried that was not the proper time for it." The sergeant-major ordered him to leave the office. He did not leave at once, and after the sergeant-major telling Blackmore three times to leave, the sergeant-major spoke sharply to him. The sergeant-major then ordered me to place Blackmore in the guard room. On the way to the guard room I told Blackmore he was very foolish to act in the manner he had done so as to get himself into trouble. He said: "Oh you are a son of bitch and a bastard, you are." I then handed him over to the prevost constable Skinner. I cannot swear whether Blackmore was under the influence of liquor or not, but he appeared queer in his manner. I have an idea from the way Blackmore spoke to me he was trying to get me to commit myself.

F. W. SPICER.

You did use the expression "son of a bitch" after leaving the sergeant-major's office and before going into the guard room, but I cannot swear that you applied the words to me.

F. W. SPICER.

Reg. No. 1034, Sergeant-Major H. DESBARRES, SWORN :

Last evening (25th), before evening stable, I gave Staff-Sergeant Spicer the detail for stable picquet. Constable Blackmore's name was on the detail. Shortly after Constable Blackmore came to me, and in an excited manner said it was not fair that he should be put on picquet just after coming off a trip; that Sergeant-Major Douglas had never done so. I told him I did not care what had been done before, but seeing that he had just come off a trip I would let him off. I told him to tell Sergeant Spicer from me to warn Constable Forbes. He left my office then. Shortly before picquet mounting Staff-Sergeant Spicer brought Constable Blackmore to my office and told me what he has already stated. Constable Blackmore interrupted him by saying: "This is no God damn orderly room, nor was it the proper time to try a man." I told him to shut his mouth. He replied that he had as good a right to talk as anyone. I again cautioned him to keep quiet and leave the office. He advanced towards my table and continued talking in an insolent manner. Seeing that he would not keep quiet I said: "Get to hell out of here. Sergeant Spicer, take him to the guard room." Sergeant Spicer then took him to the guard room.

H. DESBARRES.

Reg. No. 2030, Constable BLACKMORE, states as follows:—

Yesterday afternoon (15th inst.), at about 4.30, Sergeant Spicer warned me for second relief stable picquet. I asked him if it was fair that I should go on picquet that night, having only returned from Medicine Hat at about 3 o'clock. Sergeant Spicer told me I had better go to the sergeant-major and find out about it. I asked the sergeant-major if he would mind letting me off that night. He told me I had not been on since the 9th, and that it was my turn to go on. The sergeant-major said he would let me off and put me on next night. He told me to see Sergeant Spicer, and tell him to warn Constable Forbes for picquet. I found Sergeant Spicer in barrack room and gave him the sergeant-major's message. He thought I said Ford, instead of Forbes. I repeated the name Forbes the second time.

At about 6.30 Staff-Sergeant Spicer asked me if I had warned Forbes. I said: "No." He said: "Why didn't you warn him?" I said: "I did not know that I was a troop orderly." He then told me to go down and warn Forbes, and I said I would. I thought that, as Forbes was only going on second relief, there was no use my going at once.

At about 6.45 Staff-Sergeant Spicer came to me again and asked me to go to the sergeant-major's office with him. We went over. When he got me inside he commenced to make a speech to the sergeant-major, who ordered him to place me under arrest. The sergeant-major then began to speak to me, and I told him I did not think that was the orderly room. Then he told me to go out. As I was going out the sergeant-major said something, and, thinking he was speaking to me, I turned back and asked him if he was speaking to me. He said: "Shut your d---n mouth and go to hell out of here." I said I should not be spoken to like that. He then told Sergeant Spicer to take me to the guard room.

E. BLACKMORE.

HEADQUARTERS, REGINA, 29th November, 1891.

Memorandum to Superintendent ANTROBUS, N. W. M. P., Maple Creek.

I beg to acknowledge the receipt of your letter of the 27th instant, forwarding copy of a charge against regt. No. 2030, Constable Blackmore, of your division, together with the evidence taken in the case.

I consider the whole case from beginning to end shows a gross want of discipline in the division under your command, and while Constable Blackmore is guilty of grave offences, I am of opinion that his bad conduct was entirely caused by the want of discipline displayed by your sergeant-major and Staff-Sergeant Spicer. You will make out the following charge against Sergeant Major DesBarres:—

1st. Neglect of duty, in that he did delegate Constable Blackmore to deliver an order to Staff Sergeant Spicer on the evening of the 25th instant, in place of delivering it himself.

2nd. Did use abusive language to Constable Blackmore on the evening of the 25th instant, and if found guilty, of which I have not the slightest doubt, judging from the evidence taken in Blackmore's case, you will fine him \$30.

You will also make out the following charge against Staff-Sergeant Spicer:—

1st. Neglected his duty when division orderly in not warning Constable Forbes-Leith for stable picquet on the evening of the 25th instant.

2nd. Did delegate Constable Blackmore to perform his (Staff-Sergeant Spicer's) duty when division orderly on the evening of 25th instant, and if found guilty, fine him \$20, and transfer him to Regina without delay, transfer to date from the 1st December, 1888.

With respect to Constable Blackmore, you will sentence him to a fine of \$10 and three months' imprisonment with hard labour. If it was not for the fact that I consider he was aggravated by both the sergeant-major and Staff-Sergeant Spicer, I should have sentenced the man to twelve months' imprisonment, with dismissal as a bad character.

In connection with this matter, I would say that I have done everything in my power to strengthen your hands in the command of your division, and have selected and sent you sergeants of good reputation, to enforce discipline; still, your division affords me more anxiety than any other, and there are more serious breaches of discipline than in all the other divisions together. I cannot but ascribe this to your own weakness and want of tact.

If you had been a good disciplinarian, and had shown any judgment in this matter, you would have placed the sergeant-major and Staff-Sergeant Spicer under arrest and preferred the charges, now forwarded to you, against them, instead of throwing the onus on your commanding officer.

I trust for the future that discipline in your division will be enforced in such a manner as will prevent such cases as Constable Blackmore's. Charge and evidence in Blackmore's case herewith to be returned.

L. W. HERCHMER, *Commissioner*.

MAPLE CREEK, 1st December, 1888.

SIR,—I have the honour to enclose charge and evidence against regt. No. 2030, Constable Blackmore.

In accordance with your instructions, I have awarded the following punishment :—
Fined \$10 and to be imprisoned with hard labour for three months.

I have the honour to be, sir, your obedient servant,

W. D. ANTROBUS, *Superintendent.*

The Commissioner North-West Mounted Police, Regina.

MAPLE CREEK, 1st December, 1888.

SIR,—I have the honour to report that according to instructions I had Sergeant Major DesBarres and Staff Sergeant Spicer up on charges mentioned in your confidential letter of 29th ultimo.

After I had investigated the case against Constable Blackmore without putting a charge against them, I spoke to both these non-commissioned officers, and severely reprimanded them for their action in Blackmore's case. Had it not been that I considered they were partly to blame I would have dealt with Blackmore's case myself, and it was partly this case which made me ask leave to go to Regina. Knowing Blackmore as I do, I do not feel that I can, unless ordered, inflict the punishments mentioned in your letter on Sergeant-Major DesBarres and Staff-Sergeant Spicer.

All summer this constable has been a source of annoyance to the non-commissioned officers, but is too sharp to be caught every time ; he just going far enough to avoid being placed under arrest. He is one of the worst men I ever had under me, and, if I recollect rightly, I have mentioned him to you as a very bad man.

As I will be in Regina to-morrow, I shall be happy to answer any questions on this case.

I have the honour to be, sir, your obedient servant,

W. D. ANTROBUS, *Superintendent.*

The Commissioner North-West Mounted Police, Regina.

NORTH-WEST MOUNTED POLICE,

MAPLE CREEK, 30th November, 1888.

Against Regt. No. 1034, S. M. DesBarres, H., of "A" division, having committed a breach of discipline in that he : 1st. Did delegate Constable Blackmore to deliver an order to Staff-Sergeant Spicer on the evening of the 25th inst., in place of delivering it himself ; 2nd. Did use abusive language to Constable Blackmore on the evening of the 25th inst.

W. D. ANTROBUS, *Supt. Commanding Division.*

NORTH-WEST MOUNTED POLICE, MAPLE CREEK, 30th November, 1888.

Against Regt. No. 1027; Staff-Sergeant Spicer, F. W., of "A" division, having committed a breach of discipline in that he : 1st. Neglected his duty when division orderly, in not warning Constable Forbes for stable picquet on the evening of the 25th instant ; 2nd. Did delegate Constable Blackmore to perform his (Staff-Sergeant Spicer's) duty when division orderly on the evening of the 25th instant.

W. D. ANTROBUS, *Supt. Commanding Division.*

Regt. No. 1034, Sergeant-Major DesBarres, H., states as follows :—

"On the evening of the 25th instant, a considerable time elapsed before Constable Blackmore came to me, asking me to let him off picquet that night, and, as Constable Forbes, who was next for duty, lives quite a distance from the barracks, and the chances were that he would go to town with his wife that evening, I thought it prudent to have him warned at once, and as I looked for Staff-Sergeant Spicer and could not find him in his room, I told Blackmore to look for him, and tell him from me to have Forbes warned, which he did. I had a lot of other things to do in regard to my duties as sergeant-major, so that I had not time to hunt up Staff-Sergeant Spicer, but I intended to tell him about it as soon as I saw him, in case Blackmore should have failed to do so, which I did.

“As to the second charge, I am quite aware of the fact that I did wrong in talking that way to Constable Blackmore, but when I warned him three times quietly to leave my office, and he still using insulting language towards me, and advancing towards me in a threatening manner, or towards the table at which I was sitting, as if to square himself to fight, I lost my temper, and told him what I had stated in my evidence.

“Constable Blackmore in his defence says he thought he heard me call him back, which is a lie, as he never intended to leave nor made any effort of leaving, but I think stayed to aggravate me so as to commit myself to strike him, and I think, had not Sergeant Spicer been in my office, he would have struck me first. I had ordered Constable Blackmore under arrest before he started to use insolent language, and so soon as Staff-Sergeant Spicer had stated the case to me.

“I have been a non-commissioned officer for 3½ years in this force, and never had to use any harsh language towards any man, and it is not my way to bully and abuse men, but this constable would aggravate any man living by his ways and talk.

“H. DESBARRÉS, *Sergeant-Major.*”

Regt. No. 1034, Staff-Sergeant F. W. SPICER, states as follows:—

“On the 25th November I was division orderly. Constable Forbes lives out of barracks, and as I could not leave I told Constable Blackmore to go and tell Constable Forbes that he was for picquet, having previously told him that he might be required, and I had told him if he was I would send him word. At the time I told Constable Blackmore to go to Forbes I could not possibly leave, as it was just before stable hour. I have known Constable Blackmore since last spring, and have always noticed his surly manner. He always acted as if he wished to annoy non-commissioned officers so as to make them commit themselves. I was in the troop office when the sergeant-major placed him under arrest. He then began to swear and curse at the sergeant-major. He was very insolent, and at one time I thought he was going to strike the sergeant-major. It was then the sergeant-major told Blackmore to “get to hell out of there,” at the same time ordering me to take Blackmore to the guard room. Between the troop office and the guard room he used the words, “son of a bitch and bastard,” I am sure with the expectation of my committing myself. I, however, managed to keep my temper.

“F. W. SPICER.”

“(Confidential.)

“REGINA, 3rd December, 1888.

“SIR,—I have your confidential letter of the 1st December, together with the charges I instructed you to make out against Sergeant-Major DesBarres and Staff-Sergeant Spicer, and the charge and sentence against Constable Blackmore. You state that your reason for sending Constable Blackmore's charge in the first instance for my sentence was that you considered the above sergeants partly to blame. Why, then, did you merely verbally reprimand these sergeants, without making any entry against them? This trivial punishment for such grave offences has deterred me from inflicting a well-merited fine on these non-commissioned officers, when the action of these non-commissioned officers obliged me only to sentence Constable Blackmore to three months, when if not aggravated he should have got twelve months and his dismissal. You will severely reprimand these non-commissioned officers and enter it in their defaulters' sheets. I cannot understand how you can punish your constables as you do, when you overlook gross breaches of discipline in your non-commissioned officers. When I complained about your allowing Corporal Ritchie to be placed on town detachment at Medicine Hat, after I had ordered his removal from Dunmore, on account of his untidiness, you immediately, in a most flippant manner, reported the sergeant at Moose Jaw for being improperly dressed, and on my proceeding to make a note for investigation you at once begged me not to use your name, although on my insisting you withdrew your protest. This half-hearted and milk-and-water desire for popularity is killing the force; it is bad enough when civilians refuse to inform on the men, but when officers of your length of service give way to this pernicious system it is simply disgraceful, and no officer can

have the welfare of the force at heart if he fails to take notice of irregularities, whether in his own division or those of other superintendents.

I am sick of this morbid feeling. I have already ordered Staff-Sergeant Spicer to Regina, and on receipt of this you will send Sergeant Meneley here for instructions. I have changed your sergeants all round, and if you cannot manage your division after this I shall be obliged to place you at a post under another officer.

“I am, &c.,

“L. W. HERCHMER, *Commissioner*.

“Superintendent ANTROBUS, N.W.M.P., Maple Creek.”

CONSTABLE W. H. MARTIN.

NORTH-WEST MOUNTED POLICE, MAPLE CREEK, 9th September, 1889.

SIR,—I have the honour to forward herewith charge and evidence against Reg. No. 1284, Constable W. H. Martin, of “A” division. I consider the charge, to a certain extent, proved, although Sergeant Ince is not able to swear to Martin’s condition. He says: “To the best of my knowledge he was under the influence of liquor,” and he is unsupported, except by the evidence of Constable McKenzie.

The evidence against the charge given by Staff Sergeant Pringle, Sergeant Patterson and Constables Williams and Bates, only shows that Martin was sober at about 9 or 9.15 p.m. on the night in question, and he had plenty of time after that to get something to drink, and to become under the influence of liquor.

Sergeant Ince appears to have acted in a very strange manner in not having placed Martin under arrest at once.

From the evidence, looking at it all round, I thought it better to send it to you before doing anything in the matter myself. It is the first charge of this nature against Martin, and as there is so much doubt about it, perhaps it would be as well to dismiss it. I am writing you by this mail in reference to this matter and others.

I have the honour to be, sir, your obedient servant,

G. E. SANDERS, *Insp. Commanding “A” Division*.

The Commissioner North-West Mounted Police, Regina.

Reg. No. 695, Sergt. Ince, being sworn, states as follows:—

I am division orderly. On the evening of the 6th inst., between 9.30 and 10.15 p.m., I noticed Constable W. H. Martin, to the best of my knowledge, under the influence of liquor, not so much that he could not blow his calls. I said nothing to him that night, but placed him under arrest next morning for being under the influence of liquor. Constable Martin fell down outside the barracks room. I was standing behind him when he blew “last post.” He could hardly stand up. As for blowing the calls, you could hardly tell what they were.

When I placed Constable Martin under arrest he said “he guessed we fellows round here didn’t know him,” and he began swearing, for which I checked him.

ROBT. INCE, *Sergeant*.

Reg. No. 307, Constable McKenzie, being sworn, states:—

On the night of the 6th inst. I was passing through the hall at the same time as Constable Martin was going to sound “last post.” He was staggering about, but I thought he was playing off more than anything else. I heard him sound “last post.” I did not notice anything particularly wrong in the way it was sounded. Constable Martin might have been drinking, but I did not know anything about it. I did not see Constable Martin fall down. I passed him whilst sounding “last post.” I was not in the barracks during the evening until about “last post.”

A. J. MCKENZIE, *Constable*.

Reg. No. 101, Staff-Sergeant Pringle, being sworn, states :—

I was in the recreation room on the evening of the 6th inst., about 9 p. m. Saw Constable Martin and spoke to him. He was to all appearances perfectly sober. I enquired the time of him, as I had an appointment about 9 p. m., and left the canteen shortly after.

J. PRINGLE, *Staff-Sergeant*.

Reg. No. 1589, Sergeant Patteson, being sworn, states :—

I was in the canteen on the evening of the 6th inst., about 9 p. m. I saw Constable Martin there. I would not say he was drunk. I heard him blow "first post." There was nothing wrong with the manner in which he blew it. I did not notice how he blew the other calls. Constable Martin was what I should call sober, although he may have had a glass or two of beer.

T. E. PATTESON, *Sergeant*.

Reg. No. 1671, Constable Williams, being sworn, states :—

On the evening of the 6th inst., at or about 9.15 p. m., Constable Martin left the canteen, and to the best of my knowledge was perfectly sober. He had about five drinks of beer. I cannot see how he could have been drunk, for if he was you might call every man in the post drunk every night. I heard "first post," "last post" and "lights out" blown on the evening of the 6th inst. They sounded all right to me.

P. WILLIAMS, *Constable*.

Reg. No. 2299, Constable Bates, sworn, states :—

I did not see Constable Martin after "first post." on the night of the 6th inst. I had been in his company during the former part of the evening, and we had had two or three glasses of beer together at the canteen, but I saw nothing whatever in his manner to show that he was under the influence of liquor, except perhaps he talked a good deal, but that is nothing new. I heard Constable Martin blow both "last post" and "lights out," and I thought they were blown all right. I did not tell Constable McKenzie, as far as I remember, that I thought Constable Martin was under the influence of liquor.

GEO. BATES, *Constable*.

Reg. No. 2279, Constable Sabourin, being sworn, states :—

I saw Constable Martin about 10 p. m. on the night of the 6th inst. There was nothing wrong with him when I saw him; he was not making any noise. I was in the barrack room on the morning of the 7th inst. when Sergeant Ince put Constable Martin under arrest. Martin asked Sergeant Ince why he did not put him under arrest on the previous night. I did not hear Constable Martin use any bad language at all.

P. SABOURIN, *Constable*.

Reg. No. 307, Constable McKenzie, being re-called, states :—

After "last post" I spoke to constable Bates, and asked him what was the matter with Constable Martin. He said that he and Martin had been having some beer together, and that he was all right, but perhaps it might have made Martin feel a little boozzy. The reason I asked Bates this question was because I thought Martin was playing off when I saw him in the hall.

A. J. MCKENZIE, *Constable*.

Reg. No. 1284, Constable Martin, states :—

I was perfectly sober on the night of the 6th inst. I had been in the canteen until about 9.10 p. m., when I left and came to the barrack room to see if it was time to blow "first post," which I did at the proper time, and I sounded it correct. At "last post," I saw Sergeant Ince standing in the hall; I think he was watching me blowing the calls. I did not fall down after blowing "last post." After blowing "last post" I came

through the hall, and Sergeant Ince questioned me about the coldness of the night, and when I blew "lights out" Sergeant Ince was standing in the same place as when I blew "last post," that is, in the hallway. He did not put me under arrest until the next morning. If Sergeant Ince had put me under arrest on the night in question I would have paraded myself before every one in the troop to see whether I was drunk or sober. In so far as using any insubordinate language, I asked Sergeant Ince how it was he did not put me under arrest on the night of the 6th inst., and he told me to shut up. I was quite surprised when I was put under arrest for being drunk, as I have never had a charge put against me for being under the influence of liquor. I am able to stand three or four glasses of beer without being in any way under the influence of liquor.

W. H. MARTIN.

Taken before me this 9th day of September, 1889.

G. E. SANDERS, *Inspector Commanding "A" Division.*

NORTH-WEST MOUNTED POLICE HEADQUARTERS, "A" DIVISION,
MAPLE CREEK, 19th September, 1889.

SIR,—Referring to my letter of the 9th instant, forwarding charge and evidence against Reg. No. 1284, Constable W. H. Martin, for your consideration.

I have the honour to request your instructions in this matter, as Constable Martin is still under arrest.

I have the honour to be, sir, your obedient servant,

G. E. SANDERS, *Inspector Commanding.*

The Commissioner North-West Mounted Police, Regina.

REGINA, 21st September, 1889.

Memo:—

To Officer Commanding N. W. M. Police, Maple Creek.

I enclose herewith charge against Reg. No. 1284, Constable Martin, of "A" division, with punishment awarded noted thereon.

L. W. H., *Commissioner.*

Charge.

MAPLE CREEK, 9th September, 1889.

Against Reg. No. 1284, Constable W. H. Martin, of "A" division, having committed a breach of discipline in that he was under the influence of liquor on the night of the 6th instant; (2.) Did use insubordinate language to Sergeant Ince on the morning of the 7th instant.

G. E. SANDERS, *Inspector Commanding Division.*

EVIDENCE:

Sergeant Ince.

Constable McKenzie.

do Bates.

Fined \$10.

L. W. HERCHMER, *Commissioner.*

REGINA, 21st September, 1889.

CONSTABLES DONOHUE AND LYNCH.

NORTH-WEST MOUNTED POLICE, "A" DIVISION,
MAPLE CREEK, 22nd September, 1890.

SIR,—Replying to your inquiry, dated 20th instant, about sentences on Constables Donohue and Lynch, I beg to report:

Donohue was sentenced by Inspector Sanders to thirty days C. B. for being drunk. This light sentence was given on account of it being Christmas Day. He was subsequently (on another similar charge) sentenced to three months' hard labour and to be dismissed the force. Both of these sentences were carried out in full.

Lynch was the man punished by Superintendent Antrobus, who fined him \$10 for being drunk. This fine was paid in the usual way. Lynch accompanied Mr. Davin on the train going east, returning on the next train, and on his return to Maple Creek was placed under arrest.

None of the above-mentioned sentences were ever modified by you.

I have the honour to be, sir, your obedient servant,

E. W. JARVIS, *Superintendent.*

The Commissioner North-West Mounted Police, Regina.

REGINA, 23rd September, 1890.

SIR,—In reply to your enquiry *re* the punishment of Reg. No. 1960, Constable Donohue, at Maple Creek, for drunkenness, I have the honour to inform you that on both occasions he was sentenced by Inspector Sanders, and that his sentence was never reduced by me, nor was I ever consulted in the matter. I enclose report from Superintendent Jarvis, "A," on the subject, taken from the official records of that division.

I have the honour to be, sir, your obedient servant,

L. W. HERCHMER, *Commissioner.*

The Comptroller North-West Mounted Police.

REGINA, 23rd September, 1890.

MY DEAR MR. WHITE,—I know I was right about Lynch and Donohue; Antrobus is all wrong, as he never tried Donohue at all. I referred the matter to Maple Creek for corroboration.

On 26th December, Donohue got off cheap as it was Christmas, but I was not even consulted.

Lynch was tried by Antrobus, who, before giving sentence, reported all the particulars to me and asked for advice. At the same time Mr. Davin wrote me, and out of consideration to his position I instructed Antrobus, or rather advised him, to just fine him \$10, and not to imprison him, as I had promised to give him a good sentence the next time he got into trouble.

Yours obediently,

L. W. HERCHMER, *Commissioner.*

The correspondence with Antrobus was private and confidential.

APPENDIX B.

NORTH-WEST MOUNTED POLICE.

Circular addressed by the Commissioner to officers of the North-West mounted police who are justices of the peace in and for the North-West Territories; also copies of replies to and correspondence in connection therewith.

A statement has been made in the *Regina Leader* that I have on various occasions interfered with officers of the North-West mounted police in the execution of their duties as justices of the peace, using my position as commanding officer in influencing their decisions as justices of the peace. Will you inform me officially whether I have ever interfered with you in such particulars, stating occasions, if any?

L. W. HERCHMER, *Commissioner.*

HEADQUARTERS, REGINA, 11th November, 1889.

 REPLIES TO COMMISSIONER'S MEMORANDUM OF THE 11TH NOVEMBER, 1889, AND CORRESPONDENCE IN CONNECTION THEREWITH.

CALGARY, 13th November, 1889.

SIR,—In answer to your memo. of the 11th inst., I have the honour to state that you have never interfered with me in the execution of my duties as a justice of the peace.

I have, &c.,

W. M. HERCHMER, *Asst. Commr.*

L. W. HERCHMER, Esq., Commr. N.W.M.P., Regina.

REGINA, 15th November, 1889.

SIR,—In reply to your memo. of the 11th instant, I have the honour to reply as follows :—

You never influenced or interfered with, or tried to influence or interfere with my findings as a justice of the peace for the North-West Territories.

I have, &c.,

JOHN COTTON, *Insp. Supt.*

The Commissioner North-West Mounted Police, Regina.

CALGARY, 13th November, 1889.

SIR,—In answer to your memorandum of the 11th inst. I would beg to say that you have never interfered with me in the execution of my duties as a justice of the peace in and for the North-West Territories.

I have, &c.,

J. H. McILLREE, *Supt. Commanding "E" Division.*

L. W. HERCHMER, Esq., Commr., N. W. M. P., Regina.

REGINA, 15th November, 1889.

SIR,—In answer to your memorandum referring to a statement made in the *Regina Leader* that you had on various occasions interfered with officers of the North-West mounted police in the execution of their duties as justices of the peace, using your position as commissioner in influencing their decisions as justices of the peace, I have the honour to state that I do not remember that you ever interfered with me in the execution of my duties as justice of the peace, nor that you have influenced me in my decisions.

The only instance I can remember when you expressed an opinion that a prisoner should be severely punished was in the case of one Chabot, arrested for vagrancy. This occurred previous to the hearing of the case, and knowing the facts in evidence, I differed with you. When the case came up I entered a conviction and deferred sentence.

I have, &c.,

SEV. GAGNON, *Superintendent.*

The Commissioner North-West Mounted Police, Regina.

Re Superintendent Gagnon's reply to Circular dated 11th November, 1889.

Chabot was a dismissed constable who persisted in haunting the barracks to look for Inspector Bégin, was repeatedly led to barrack gate by sergeant of the guard, on one occasion after calling me "a son of a bitch," and was found sleeping in hay in police stables.

I remember distinctly expressing an opinion that he should be well punished, as he was a dangerous man, and might burn the place down. My remarks were general.

L. W. HERCHMER, *Commissioner N. W. M. Police.*

(*Memorandum.*)

NORTH-WEST MOUNTED POLICE, LETHBRIDGE, 13th Nov., 1889.

SIR,—In reply to your memorandum dated the 11th inst., I have the honour to inform you that you have not ever interfered with me in the exercise of my duty as a justice of the peace.

I have, &c.,

R. BURTON DEANE, *Supt. N. W. M. P.*

The Commissioner North-West Mounted Police, Regina.

MACLEOD, 17th November, 1889.

SIR,—In reply to your memorandum of the 11th instant, in which you ask if in my opinion you have interfered with me in my duty as a justice of the peace, or influenced me in any decisions, I have the honour to inform you that you have not on any occasion interfered with my decisions, in any way, nor influenced me in my course. I have also heard you remark that you did not wish, nor would you attempt to interfere with any of the officers in that respect, as it was no affair of yours, but that you wished officers occupying the positions referred to, to be most careful in hearing cases, as it was of great importance that the officers of the force should act as justices, to enable them to carry out the important duties entrusted to them with satisfaction to the public. These remarks you made to me in the orderly room at Fort Macleod on an occasion when the decision of a justice had been commented upon by some of the public press.

On the other hand, I am under the impression that the wording of two telegrams, one signed by you, and one by Superintendent Cotton, and referring to Constable Craig's case, would lead any one not knowing your opinions on the subject to suppose that you directed the action of officers who hold the said positions in the commission of the peace.

Those telegrams being produced in court before Judge Macleod (an open court) and being read there, has, in my opinion, prejudiced the public mind; members of the press were present, and at that time had ample opportunities of making themselves acquainted with the wording of the telegrams to which I refer. On the arrival of Superintendent Cotton to hear the case under the larceny act, I remarked to him that it was a pity that they had been worded in that way, as a handle would be made out of it to deprive us of positions which you were anxious we should retain. I also remarked that of course it never was intended that the telegrams should be construed into meaning that you were directing me, an opinion which I still hold, although I must say that many words in the telegrams were superfluous.

I have, &c.,

S. B. STEELE, *Superintendent.*

To the Commissioner North-West Mounted Police, Regina.

REGINA, 20th November, 1889.

(*Memorandum.*)

Re Superintendent Steele's reply to circular memorandum, dated 12th November 1889.

The telegram I presume he has reference to was the following:—

“REGINA, 21st August, 1889.

“Telegram to officer commanding N.W.M. Police, Macleod.

“Information laid before me against Craig, for unlawfully appropriating money, property of dominion government, &c.

“Warrant goes to-night. Arrest Craig and remand, unless he gives security four hundred dollars.

“JOHN COTTON.”

“REGINA, 23rd August, 1889.

“Telegram to Superintendent Steele, N.W.M. Police, Fort Macleod.

“In Craig’s case, I hope you have acted on Cotton’s message *re* issue of warrant.

“L. W. HERCHMER.”

Neither of which should have been produced in court.

My reason for sending the latter telegram was the receipt of the following message from Superintendent Steele :—

“MACLEOD, 22nd August, 1889.

“Telegram to Commissioner, Regina.

“Constable Craig says he will do what is right when he sees the accounts, not till then.

“S. B. STEELE.”

From which I was afraid Superintendent Cotton’s telegram *re* issue of warrant had not been acted upon, that officer having informed me, as his opinion, that the sympathies of every one at Macleod, including many of the officers, was with Craig. This telegram I had a perfect right to send, and it has nothing to do with trying to influence a justice of the peace. It merely asks if he had acted on Superintendent Cotton’s message, and the superfluous words are undoubtedly those in the latter part of Superintendent Cotton’s telegram of the 21st August last, and which are as follows :—

“Arrest Craig and remand, unless he gives security four hundred dollars.”

I have nothing to do with this telegram.

Superintendent Steele is annoyed at my having sent Inspecting Superintendent Cotton to Macleod. In the first instance, he was sent up as inspecting officer, as I had no opportunity of talking the matter over with Superintendent Steele, and in the second instance he thoroughly understood the whole case. He had opened it, and was consequently the proper person to see it through.

L. W. HERCHMER, *Commissioner*.

“NORTH-WEST MOUNTED POLICE,

“PRINCE ALBERT, 18th November, 1889.

“SIR,—I have the honour to acknowledge your memorandum, dated Regina, 11th November, 1889, relative to a statement made by the *Regina Leader* that you had on certain occasions interfered with officers of the North-West mounted police in the execution of their duties as justice of the peace.

“I beg to state that you have never, in any manner, interfered with me in the discharge of my duty as a justice of the peace.

“I have, &c.,

“A. BOWEN PERRY, *Supt. Commanding ‘F.’ Division*.

“The Commissioner North-West Mounted Police, Regina.”

“FORT SASKATCHEWAN, 16th November, 1889.

“SIR,—In answer to your memo. of the 11th instant, inquiring as to whether you had, at any time, interfered with, or attempted to influence me in my duties or decisions as a justice of the peace.

“I have the honour to reply that you have never done so; and further, that such a matter has never been mentioned or alluded to by you to me.

“I have, &c.,

“A. H. GRIESBACH, *Supt. North-West Mounted Police*.

“The Commissioner North-West Mounted Police, Regina.”

“FORT MACLEOD, 18th November, 1889.

“SIR,—In reply to your memo. of the 11th instant, in reference to a statement that you say appeared in the *Regina Leader*, to the effect that you had interfered with officers

of the force in the discharge of their duties as justices of the peace, I have the honour to state, that no such interference nor attempt at such was ever made, as far I am concerned.

“ I have, &c.,

“ A. R. MACDONALD, *Superintendent*.

“ L. W. HERCHMER, Commissioner N.-W. M. P., Regina.”

“ NORTH-WEST MOUNTED POLICE,

“ REGINA, 2nd December, 1889.

“ SIR,—Referring to your memo. of 11th November (just received), I beg to state that you have never interfered in any way with my action as a justice of the peace.

“ I have, &c.,

“ E. W. JARVIS, *Supt. Commanding “ B ” Division*.

“ The Commissioner North-West Mounted Police, Regina.”

Forwarded to the comptroller, Regina, 2nd December, 1889.

L. W. HERCHMER, *Commissioner N.-W. M. P.*

“ BATTLEFORD, 20th November, 1889.

“ SIR,—In reply to your memo. of 11th instant, I would beg to request that I be allowed for the present to refrain from answering the question it contains, as, if an enquiry is to be held, I would rather not be called in evidence.

“ I have, &c.,

“ W. D. ANTROBUS, *Superintendent*.

“ The Commissioner North-West Mounted Police, Regina.”

I have wired for a direct answer.

L. W. H.

“ BATTLEFORD, 20th December, 1889.

“ SIR,—Referring to your telegram of the 18th instant, I have the honour to report that on receipt of circular memorandum therein referred to I replied, requesting to be allowed not to answer the question it contained. In my letter I do not think I said that you had interfered with me in my capacity of justice of the peace, nor do I say so now, but you will doubtless remember that when you were in Calgary in 1886 I tried two men (Cummings and Macleod) for infringement of the liquor law, and was going to fine them each \$400 and costs, as it was, I think, their third offence. I told you so, and you ordered me to fine them \$400 each and to give them six months' imprisonment, which I did.

“ These are the only cases of mine in which you even advised me ; but certainly I cannot say that you directly interfered with me while I was acting as a justice of the peace.

“ I trust the above reply will be satisfactory.

“ I have, &c.,

“ W. D. ANTROBUS, *Superintendent*.

“ The Commissioner North-West Mounted Police, Regina.”

“ REGINA, 1st January, 1890.

“ DEAR MR. WHITE,—I enclose Antrobus' reply to the circular *re* justices of peace. His delay was occasioned, as I expected, by alleged interference on my part in the trial of two whiskey men at Calgary in 1886.

“ The circumstances were as follows :—There had been a great many cases in Calgary during a short period, and no matter how often the offence was repeated, fining was the result and no imprisonment. People were talking in Calgary about the fining system, and wondering how the informer's share of fine was apportioned, and when An-

trobus consulted me about the case alluded to, I plainly told him what I had heard, and stated that if it was my case I should imprison, and not fine; at the time there was an arrangement in Calgary among the liquor men by which they all subscribed to pay individual fines.

"In spite of my warning, Antrobus fined both men \$400 and gave them imprisonment as well, and then later on did a great deal of talking in Calgary. I deny positively that I ever gave him instructions, or that I asked him what sentence he proposed to give. He consulted me; I advised him, and gave him my reasons very plainly, and that was all.

Yours, &c.,

"L. W. HERCHMER, *Commissioner N. W. M. P.*

When at Battleford in August, 1890, I read to Superintendent Antrobus his letter to the commissioner, dated 20th December, 1889, and asked whether he desired to make any further statement on the subject. He replied that he ought not to have used the word "ordered." That he was acting as magistrate at the time, and went to the commissioner for advice and not for orders.

He then corrected his letter of 20th December, and initialed the corrections.

The letter, as originally written, read:

"You will doubtless remember that when you were in Calgary in 1886 I tried two men (Cummings and Macleod) for infringement of the liquor law, and was going to fine them each \$400 and costs, as it was, I think, their third offence. I told you so, and you ordered me to fine them \$400 each and to give them six months' imprisonment, which I did."

The correction read:

"You will doubtless remember that when you were in Calgary in 1886 I tried two men (Cummings and Macleod) for infringement of the liquor law, and was going to fine them each \$400 and costs, as it was, I think, their third offence. I told you so, and you replied to give them six months' imprisonment, which I did, in addition to a fine of \$400 and costs in each case."

"PRINCE ALBERT, 19th November, 1889.

"DEAR COLONEL HERCHMER,—In reply to your memo. of the 11th inst., I have only to say that it is too utterly absurd to think that you ever influenced officers in their decisions as justices of the peace.

"I have on various occasions been sent by yourself to try cases in the headquarters district, but as far as even been told by you as to what course I should pursue, or any other detail, I am quite unaware that you ever even hinted to me as to what steps I should take in any of the cases.

"Believe me, &c.,

"F. NORMAN, *Inspector.*"

"NORTH-WEST MOUNTED POLICE,

"MAPLE CREEK, 14th November, 1889.

"SIR,—I have the honour to inform you, in reply to your memorandum of the 11th inst., that you have never interfered with me in any way in the execution of my duties as a justice of the peace.

"I have, &c.,

"G. E. SANDERS, *Inspector Commanding "A" Division.*

"The Commissioner North-West Mounted Police, Regina."

"REGINA, 14th November, 1889.

"SIR,—In reply to your memorandum, bearing date of 11th November, I have the honour to reply that on no occasion have you ever interfered with me in the execution of my duties as a justice of the peace.

"I have, &c.,

"F. DRAYNER, *Inspector.*

"The Commissioner North-West Mounted Police, Regina."

“NORTH-WEST MOUNTED POLICE.

“FORT MACLEOD, 17th November, 1889.

“SIR,—In reply to your memorandum of the 11th inst., I beg to state that you have never, in any way, tried to influence me in the execution of my duties as justice of the peace.

“I have, &c.,

“Z. T. WOOD, *Inspector, J.P.*

“The Commissioner North-West Mounted Police, Regina.”

“NORTH-WEST MOUNTED POLICE,

“REGINA, 11th November, 1889.

“SIR,—In reference to your memorandum of this date, asking me to officially state if you had ever interfered with me in the execution of my duties as a justice of the peace, I have the honour to state that you have not interfered in my magisterial duties.

I have, &c.,

A. ROSS CUTHBERT, *Inspector N.W.M.P.*

The Commissioner North-West Mounted Police, Regina.”

“EDMONTON, 18th November, 1889.

“SIR,—In answer to your memo. of the 11th inst., I have the honour to state that in my capacity as a magistrate I have never been interfered with in any way whatever, not even having received a suggestion from you or any other officer *re* any magisterial duties performed by me.

I have, &c.,

WM. PIERCY, *Inspector.*

The Commissioner North-West Mounted Police, Regina.

“NORTH-WEST MOUNTED POLICE,

“MORDEN, 16th November, 1889.

“SIR,—In reference to a statement in the *Regina Leader* that you had on various occasions interfered with the officers of the North-West mounted police in the execution of their duties as justices of the peace, using your position as commanding officer in influencing their decisions as justices of the peace.

“I have the honour to state that you never interfered with me as above stated, nor do I know of it being done to any other officer.

I have, &c.,

J. A. MCGIBBON, *Inspector N.W.M.P.*

The Commissioner North-West Mounted Police, Regina.”

“REGINA, 13th November, 1889.

“SIR,—I have the honour to state, in reply to your memorandum of the 11th inst., that you have never at any time interfered with me in the execution of my duty as a justice of the peace.

Neither has your position as commissioner influenced me in my decisions.

I have, &c.,

JAS. O. WILSON, *Inspector, J.P.*

The Commissioner North-West Mounted Police, Macleod District.”

“LETHBRIDGE, 16th November, 1889.

“SIR,—In reply to your memorandum of the 11th November, instant, I have the honour to state that on no occasion have you influenced or endeavoured to influence any

decision of mine as a justice of peace. I would have replied earlier, but have been absent at outposts since the 9th instant.

"I have, &c.,

"J. D. MOODIE, *Inspector*.

"The Commissioner North-West Mounted Police, Regina."

"FORT MACLEOD, N.W.T., 21st November, 1889.

"SIR,—In reply to your memo. of the 11th instant, relative to a statement lately published in the *Regina Leader*, with reference to you using your position as commanding officer of the North-West mounted police, interfering with officers of the North-West mounted police in the execution of their duties as justices of the peace, and influencing their decisions as justices, I have the honour to pronounce such an assertion a falsehood in any one instance, so far as I am concerned. You have not interfered in my duties as a justice of the peace for the North-West Territories.

I have, &c.,

J. V. BÉGIN, *Inspector N.W.M.P., J.P.*

"L. W. HERCHMER, Esq., Commissioner North-West Mounted Police."

"NORTH-WEST MOUNTED POLICE,

"MOOSOMIN, 12th November, 1889.

"SIR,—In answer to your memo. of the 11th instant, I have the honour to state that you have not interfered with me in the execution of my duties as a justice of the peace for the North-West Territories.

In one instance, after the case was decided, you asked on what grounds it had been dismissed. I refer to the case of A. W. Scarlett, charged with having liquor in his possession illegally. This case was tried on Wednesday, 9th, 1888, before Superintendent Cotton and myself at Regina.

I have, &c.,

C. CONSTANTINE, *Inspector N.W.M.P.*

The Commissioner North-West Mounted Police, Regina.

"REGINA, 18th August, 1889.

"SIR,—I enclose herewith copy of your letter to the commissioner of the force, dated 12th November last, in reply to his circular of the previous day, respecting alleged interference with you as a justice of the peace.

"Be good enough to let me have a detailed statement of what occurred between the commissioner and yourself with reference to the case of A. W. Scarlett, mentioned in the enclosure herewith.

"I have, &c.,

"FRED. WHITE, *Comptroller*.

Inspector C. CONSTANTINE, North-West Mounted Police, Moosomin."

"MOOSOMIN, 19th August, 1890.

"SIR,—In answer to your letter, dated Regina, 18th August, 1890, I have the honour to state for your information, after Scarlett's case had been disposed of, a letter or memo. was sent to Superintendent Cotton, asking for our reasons for dismissing it.

"At this length of time I will not be sure whether this was a 'pass' memo. or a letter to Superintendent Cotton, and by him shown to me. This was answered by me. A few days after I met the commissioner, who said he had received my answer (dated 15th May, 1888), and that he knew less of the case from the explanation than he did before, and asked me to report more fully in the case, as he wished to be able to give an explanation in case the matter should be brought up, which I did about the beginning of June, 1888. I beg to attach copies of the letters referred to.

"I have, &c.,

"C. CONSTANTINE, *Inspector N.W.M.P.*

"The Comptroller North-West Mounted Police, Ottawa."

“REGINA, 15th May, 1888.

“SIR,—In the case of A. W. Scarlett, charged with having liquor in his possession, the evidence was not considered sufficient by the court to warrant a conviction. The witnesses were not able to swear which keg was taken from Scarlett, nor what it contained.

“The only witness who seemed to know anything was Reg. No. 1625, Constable Dupont, and he did not know where the keg came from or to whom it belonged. His evidence was to the effect that he tasted liquor from one of the kegs, and he thought it was rum, but could not say whom it belonged to.

“I have, &c.,

“C. CONSTANTINE, *J.P.*.”

“The Commissioner North-West Mounted Police, Regina.”

“LETHBRIDGE, N.W.T., 15th November, 1889.

“SIR,—I have the honour to acknowledge the receipt of your memo. of the 11th instant. In reply, I would say that at no time have you, either directly or indirectly, interfered with me in any way in the discharge of my duties as a justice of the peace.

“I have, &c.,

“H. S. CASEY, *J.P.*, *Inspector N.W.M.P.*.”

“The Commissioner North-West Mounted Police, Regina.”

“NORTH-WEST MOUNTED POLICE,

“BANFF, 15th November, 1889.

“SIR,—in reply to your memo. of the 11th inst., I have the honour to inform you that at no time have you interfered with me in any way in connection with my position as a justice of the peace.

“I have, &c.,

“F. HARPER, *Inspector.*”

“Col. L. W. HERCHMER, Commissioner, North-West Mounted Police, Regina.”

“MEDICINE HAT, 12th November, 1889.

“SIR,—In reply to your memo. of the 11th instant, I have the honour to state that never in any way, or at any time, have you influenced or attempted to influence me in the discharge of my duty as a justice of the peace.

“I have, &c.,

“HUGH J. A. DAVIDSON, *Inspector N.W.M.P.*.”

“The Commissioner North-West Mounted Police, Regina.”

“PRINCE ALBERT, 4th August, 1890.

“SIR,—In answer to your memorandum, requesting that I should say as to whether you ever influenced me in my position as one of the justices of the peace for the North-West Territory, I have the honour to state that inasmuch as I have not yet sentenced any party to a penalty, it would certainly not be incumbent on me to be influenced by you in my capacity as one of her majesty's justices of the peace.

“I have, &c.,

“ALBERT HUOT, *Inspector.*”

“The Commissioner North-West Mounted Police, Regina.”

APPENDIX C.

CHARGE—INSTRUCTING JUSTICES OF THE PEACE.

CIRCULAR RESPECTING TRAMPS.

(The Macleod Gazette, 19th December, 1889.)

HERCHMER CONVICTED.

“To the Editor of the *Gazette*.

“SIR,—Here is a bit of evidence in support of the charge made against Herchmer by Mr. Haultain in the North-West assembly. It consists of extracts from a memorandum addressed to officers commanding divisions :

“The attention of officers is drawn to the alarming increase of the ‘tramp’ element in this country. All tramps are immediately to be arrested and punished as vagrants, severe sentences being inflicted. Positive instructions on this point must be at once given to all outposts. The expense of sending them to division headquarters will be great, but if properly punished their labour will lessen the outlay.’ Comment is unnecessary.

“Yours truly,

“LEX.

“MACLEOD, 18th December.”

Referred to the commissioner, who will be good enough to furnish an accurate copy of the order referred to.

FRED. WHITE, *Comptroller*.

Memo.—The following paragraph of the circular, as issued by the commissioner has been omitted by “Lex.”

“The presence of these tramps, means eventually, outrages among the isolated families of settlers, and probable ‘holding up’ of railroad trains.”

“NORTH-WEST MOUNTED POLICE,

“HEADQUARTERS, REGINA, 17th February, 1890.

“SIR,—In compliance with your instructions, I have the honour to forward you a certified copy of the instructions I considered it necessary to send to all officers of the police force on the subject of tramps.

“The alarming outrages being perpetrated in the east by tramps, and numerous instances of robbery on trains in the United States I considered warranted such action, particularly as those people were crowding into the country in a most unprecedented manner. On one occasion the conductor of the east-bound train had to run back to Donald, on account of the number of tramps on his train, and on another occasion the police had to be called to eject them from the train near Laggan, when they took to the woods, several of them being armed.

“This circular was not intended to issue to officers as J.P.’s, but to all members of the force as police officers, and was intended to stimulate them to take all legal means as prosecutors to have tramps convicted, and ensure, if possible, adequate punishment.

“One local J. P. sentenced a tramp to one week’s imprisonment, which necessitated an escort and transportation to Regina and return, costing \$20. I admit that the wording of the circular was faulty, and that the paragraph ‘severe sentences being inflicted’ should have read ‘severe sentences being advocated.’ That this was the interpretation intended is borne out by the attention of officers being drawn in the first clause and in the last sentence: ‘Positive instructions on this point must be at once

given to all outposts.' Only half the officers of the force are J.P.'s, and in only two instances in the whole territory are outposts in charge of officers who are J.P.'s.

"Sir, I have the honour to be, your obedient servant,

"L. W. HERCHMER, *Commissioner N.W.M.P.*

"The Comptroller North-West Mounted Police."

"REGINA, 24th June, 1889.

"CIRCULAR.

"Memorandum to officer commanding division North-West Mounted Police:

"The attention of officers is drawn to the alarming increase of the "tramp" element in this country. All tramps are to be immediately arrested and punished as vagrants, severe sentences being inflicted.

"The presence of these tramps means, eventually, outrages among the isolated families of settlers, and probable "holding up" of railroad trains.

"Positive instructions on this point must at once be given to all outposts. The expense of sending them to division headquarters will be great, but if properly punished their labour will lessen the outlay.

"L. W. HERCHMER, *Commissioner.*

"True copy.

"L. W. HERCHMER, *Commissioner.*"

(*From Manitoba Daily "Free Press," Wednesday, 19th February, 1890.*)

"A lot of tramps took possession of the school house at St. Vincent, Minnesota, and after getting drunk used the school records for making a fire. It took all the town police officials and a number of citizens to lodge them in jail." (On boundary, Manitoba and Minnesota.)

"Yesterday six crooks were released from the Pembina jail, where they had been serving terms. Three of them came to Winnipeg, and have been spotted by the police, who intend keeping them well in sight." (One of them already arrested for burglary.)

"NORTH-WEST MOUNTED POLICE,

"HEADQUARTERS, REGINA, 23rd February, 1890.

(*From the Manitoba Daily "Free Press" of 21st February, 1890.*)

TOUGHES IN THE TOILS.

"Four of the toughest toughs that ever fell into the hands of the police here are now occupying cells at the station house. They are the gang of jail birds who came here a few days ago from Pembina. They have been laying themselves out to do up the city, and are already suspected of being implicated in two or three offences that have been committed this week. They came here with John Buchanan, whom Mayor Pearson yesterday gave twenty-four hours to leave Winnipeg. They will be charged with vagrancy at the police court this morning. Thomas Hill, a Winnipeg vagrant, was also locked up yesterday.

"Three jail birds who were released from Pembina jail the early part of the week and came to Winnipeg probably regret that they did so now. One of them, Buchanan, was arrested Wednesday for assaulting George Rolph, and being convicted at the police court in the morning was given 24 hours to get out of town by Mayor Pearson. If he remains he will be subjected to two months' imprisonment. He promised to disappear within the required time. The other two members of the gang were arrested yesterday by Policeman Keys, and will answer to the charge of vagrancy this morning. They are all mighty tough looking individuals."

Forwarded for the information of the comptroller.

JOHN COTTON, *Inspecting Supt. for Commissioner on duty.*

“NORTH-WEST MOUNTED POLICE,

“HEADQUARTERS, REGINA, 25th February, 1890.

(*From the Manitoba Daily “Free Press” of 22nd February.*)

“Thomas Hill, a Winnipeg vagrant, was sentenced to two months’ imprisonment in the common jail yesterday for having no visible means of support. Barney Maloney, another vagrant, was remanded.

“The four toughs, Frank Ryan, Joseph Howard, Thomas Conway and James Dolan, who were arrested Thursday night under the vagrant act, appeared before the police magistrate yesterday afternoon and were convicted, but the magistrate gave them twenty-four hours to rid Winnipeg of their presence. If they do not leave the city by noon to-day they will be re-arrested and sentenced on Monday. They are a dangerous set of men to be at large in any community. Some citizens think they should be ordered to leave the country as well as the city, as they drifted in here from across the lines.”

Forwarded for the information of the comptroller.

JOHN COTTON, *Inspecting Supt. for Commissioner on duty.*

STATEMENT

(75a)

SHOWING names of Tenderers, names of Contractors and Contract prices of
Militia Clothing for 1891-92.

STATEMENT showing names of Tenderers, names of Contractors and Contract Prices of Militia Clothing for 1891-92.

Dates of Contracts.	Description of Clothing required and Tendered for in 1891-92.	Original Prices of Tenderers.		NAMES OF CONTRACTORS AND CONTRACT PRICES, 1891-92.				Contract Prices 1889-90.	Names of Firms to whom were sent Circulars inviting Tenderers for Clothing for 1891-92.		
		\$	cts.	Doull & Gibson.	Jas. O'Brien & Co.	Rosamond Woollen Co.	H. Shorey & Co.				
5th May, 1891.	Trousers, artillery, serge.	3	00	reduced to	2	85			2	79	Messrs. Doull & Gibson, Halifax.
	Breeches, riding, cavalry.	6	06						6	06	Messrs. James O'Brien & Co., Montreal.
	do do artillery.	5	56						5	56	
	do do moun'd infry.	5	56						5	56	
16th Jan., 1891.	Great coats, infantry, cloth, attached capes.	5	98	reduced to					5	48	The Rosamond Woollen Co., Almonte.
	Great coats, cavalry, cloth, attached capes.	7	72	do					7	22	
	Great coats, artillery, cloth, detached capes.	7	94	do					7	44	
	Great coats, mounted artillery, cloth, detached capes.	11	50	do					11	00	
24th Jan., 1891.	Tunics, artillery, cloth.	6	04						6	04	Messrs. H. Shorey & Co., Montreal.
	do rifle	5	58½						5	58½	
	do infantry	5	00						5	00	
	Trousers, infantry, cloth.	4	18						4	18	
24th April, 1891.	Band wings, infantry	0	33						0	33	Messrs. H. Shorey & Co., Montreal.
	do	0	33						0	33	
	Chevrons, infantry, 2 bars.	0	15						0	15	
	do do	0	20						0	20	
16th Jan., 1891.	do rifle	0	15						0	15	Messrs. H. Shorey & Co., Montreal.
	do do	0	20						0	20	
16th Jan., 1891.	Tunics, infantry, serge.	3	90	reduced to					2	82½	Messrs. H. Shorey & Co., Montreal.
	Trousers, infantry, serge.	2	85						2	85	
16th Jan., 1891.	do	2	85						2	85	Messrs. H. Shorey & Co., Montreal.
	do rifle	2	85						2	85	

RETURN

(87)

To an ADDRESS of the SENATE, dated the 29th May, 1891 ;—For copies of all orders in council, commissions and instructions for nominating a person or persons specially charged to examine the situation and resources of that part of the dominion known as the Great Basin of the Mackenzie ; and also of the report or reports made by such persons, in order to put the government in a position to decide upon the measures necessary for the protection and development of the territory.

By order.

J. A. CHAPLEAU,

Secretary of State.

OTTAWA, 22nd September, 1891.

SIR,—In reply to the reference from your department of the 2nd of June last, covering copy of an order of the Senate of 29th May previous, for copies of all orders in council, commissions and instructions for nominating a person or persons specially charged to examine the situation and resources of that part of the dominion known as the Great Basin of the Mackenzie, and also of the report or reports made by such persons, I am directed to inform you that no such person was nominated, and that consequently there is no such information as asked by the Senate which can be afforded.

I have the honour to be, sir,

Your obedient servant,

JOHN R. HALL,

Acting Deputy of the Minister of the Interior.

L. A. CATELLIER, Esq.,
Under Secretary of State,
Ottawa.