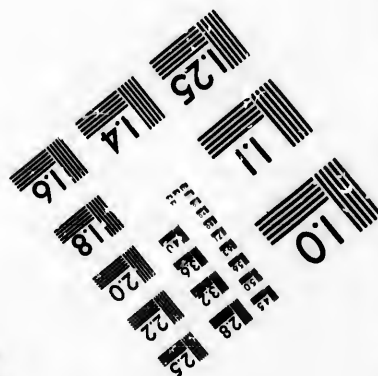
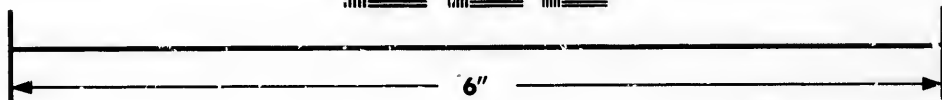
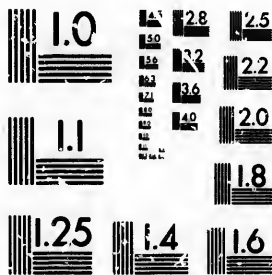


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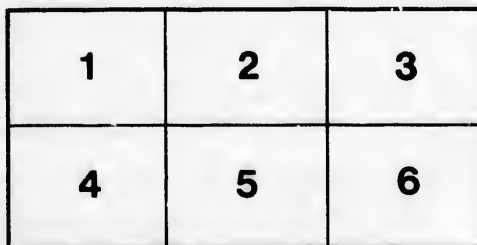
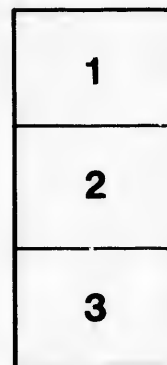
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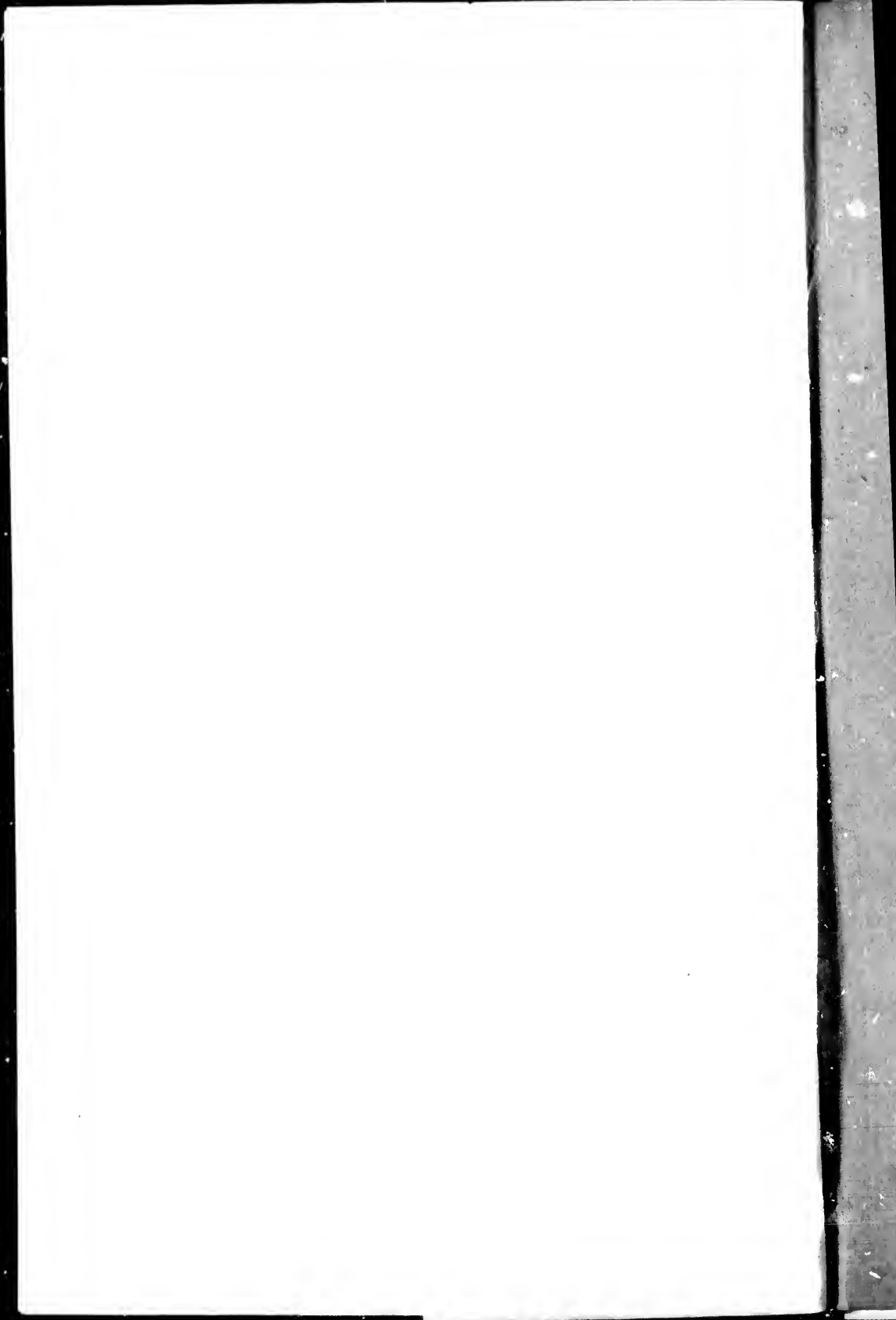
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John Hurling Esq
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A CIRCULAR

BY

MESSRS. OGILVY & CO.,

OF MONTREAL,

TO THE

IMPORTING MERCHANTS

OF CANADA.

[Printed for Gratuitous Circulation.]

MONTREAL :

GAZETTE PRINTING HOUSE, NEARLY OPPOSITE POST OFFICE.

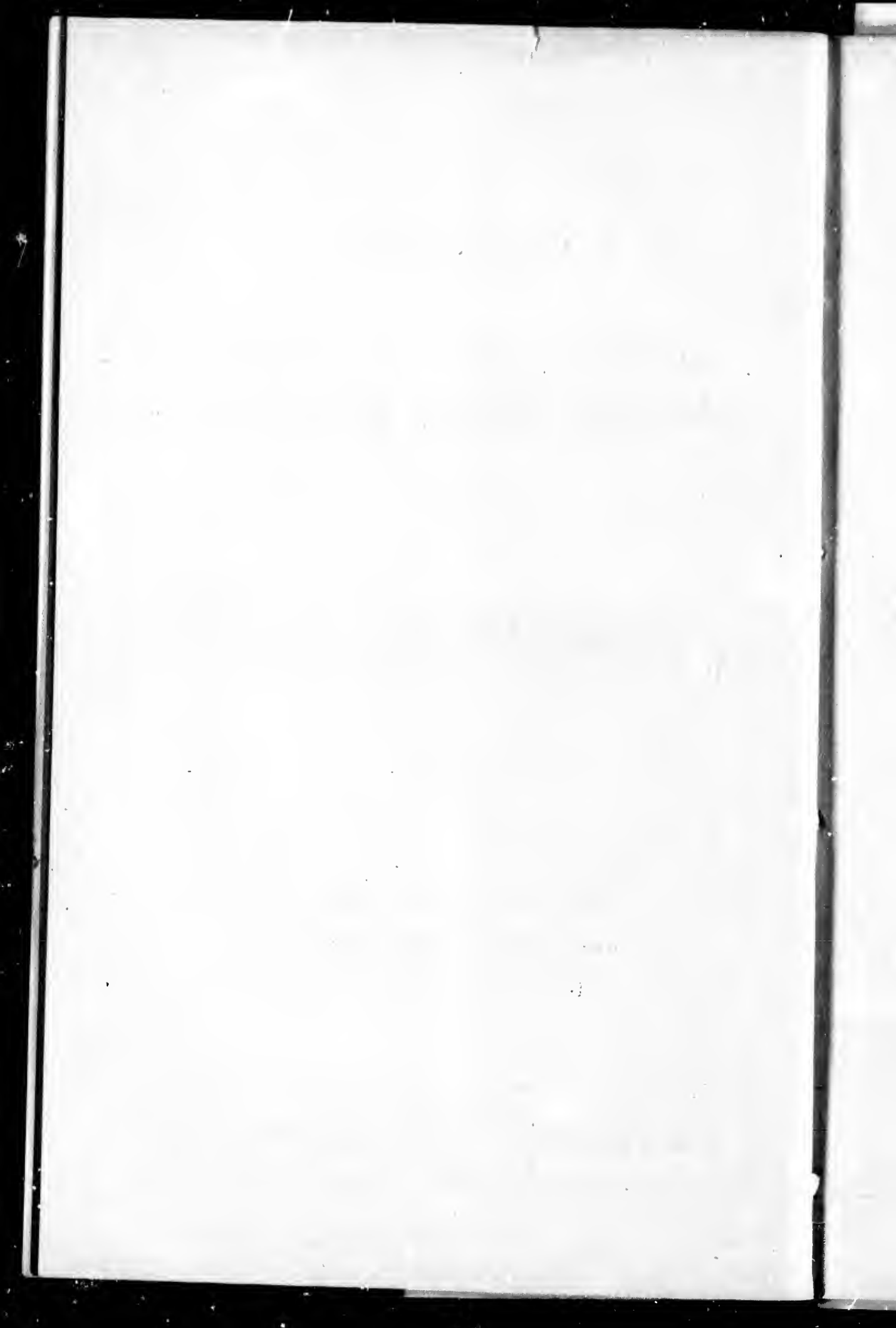
1871

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MONTREAL :
GAZETTE PRINTING HOUSE, NEARLY OPPOSITE POST OFFICE.

—
1871



TO THE

IMPORTING MERCHANTS OF CANADA.

For the information and guidance of our fellow-merchants throughout Canada, we give the particulars of a case connected with the Import Trade, and having an important bearing on the interests of the country.

A business experience of more than twenty years, as importing merchants in this city, has not furnished any parallel to the case, as set forth in the accompanying documents. We were, of course, fully convinced that the procedure and pretensions of the Customs officials here were unjustifiable; and it affords us much gratification to find that our position and views have been sustained by the Department at Ottawa, which acted very promptly and fairly toward us, thus settling a most serious question.

The gist of the matter is this,—The Customs officials here say, we must not buy abroad and bring into Canada cheap goods; if we do, (as in the present case,) we are to be called upon to pay duty on a higher price than was given for the goods, besides an additional duty or *fine* (which fine goes into the pockets of the officials!) of $7\frac{1}{2}$ per cent. on the invoice and extra valuation. The Legislature never could have contemplated such procedure. There can hardly be a question that it is for the benefit of Canada that goods should be furnished to consumers at lowest possible prices.

One of our partners remains constantly, we may say, in Europe, at very considerable expense; and surely he has a right to make the best use of his time in examining the various markets, and purchasing at whatever he may consider the lowest rates, at the most favorable points. Lately he bought a con-

siderable lot of Tartan Dress Goods from Messrs. A. & S. Henry & Co., of Bradford, England, part of which was sent to our house in Toronto, and at once passed through the Customs there ; the rest of them (15 cases) we entered here on the 10th of July, and paid duties according to Messrs. A. & S. Henry's invoices, which truly showed what the goods cost us. Two cases of the fifteen were taken to the Examining Warehouse, as required by law, for inspection. They were kept there for eight or ten days, during which time the Appraiser carried samples to a number of wholesale and retail houses in town to get valuations put on them. On 21st July we were called upon by Mr. Villeneuve, the recently appointed Appraiser, to make Post Entries, *i. e.*, to pay additional duties of from 25 to 50 per cent.,—in other words, to add about $33\frac{1}{3}$ per cent. to the cost of the goods, pay duties accordingly, and also a fine of $7\frac{1}{2}$ per cent.

The law allows the Customs Department to take any goods they may think under-valued, at 10 per cent. advance on invoice. We at once offered our shipment at this rate, thinking that if the goods were really supposed to be under-valued to the extent of 33 to 35 per cent., the Customs authorities would not hesitate to take them at 10 per cent. over the invoiced price ; or they were at liberty to take six of the cases which they considered 50 per cent. under-valued at same advance of 10 per cent. But they would adopt neither alternative.

Feeling confident in our position, we did not for a moment deem it requisite to ask for any legal opinion. In this, our adviser afterwards told us, we were wrong ; "for," said he, "there was a trap laid for you, and you fell into it." The trap was this :—We expressed in writing our dissatisfaction with the Appraiser's valuation ; the Collector then appointed two persons to meet and value our goods, one, if not both, of whom had previously been consulted on the subject, and given high valuation ; we had no voice in the matter,—could do, we were told, nothing more. The two persons appointed met, and, notwithstanding that the Collector had invited us to be present, and to offer such representations as we might deem necessary in support of our interests,—we were not questioned in any way, (although the law allowed these merchants, or the Appraisers, to examine us on oath,) but were requested to leave the room !

We were shortly after furnished with a copy of the valuation

arrived at, "*after hearing evidence*," by the two merchants—see document marked C, (on p. 8,) and also document from Collector marked B.

Deeming the proceedings altogether irregular and unfair, inasmuch as we were not permitted to make explanation or defence,—and also feeling that no just valuation could be put on a large and mixed lot of Fancy Goods on the inspection only of a few pieces, (12 cases of the lot were in our warehouse and never asked to be looked at,)—we purposed appealing to the Collector to have the whole matter reconsidered. He had, however, left the city on the same day as the valuations were made ; and, finding that the persons left in charge had no power and were unwilling to grant any delay, (see document marked D, on p. 9,) we laid our case before the President and Council of the Board of Trade. We would strongly urge that a stop be put to the system of consultation by the Appraisers with merchants previous to appraisal, and then calling on these very merchants to officially value same goods.

We annex extracts from the Customs Act bearing on this subject, (on p. 21,) and urge on the merchants of Canada the great need there is of some important changes. Amongst others, provision should be made, we think, that Appraisers be recommended for their appointments by the Board of Trade, after a thorough examination as to their capacity for the office ; and that experts to determine value of goods, in cases of supposed under-valuation, should also be named by the Board of Trade. A fair salary should be paid the Appraisers, and their participation in fines done away with. When the Collector considers goods under-valued he should take them at 10 per cent. advance, or allow the importer to enter according to invoice. Of course, in case of fraud, the goods should be confiscated.

We append affidavits of Messrs. Henry & Co., (on p. 23,) showing that they sold a portion of same lot of goods to go to France at same prices as were paid by us ; also one from the sellers of the goods to Henry & Co.

On the 28th August, we got from the Custom House here, document marked F, (on p. 24,) giving up the goods after a detention of nearly two months.

In bringing the particulars of this case under your notice, we do it as a disagreeable duty incumbent upon us,—in the hope

that it may stimulate you to take action towards protecting your interests and rights, by procuring needful amendments to the Customs laws,—and at the same time remove obstacles from the trade of the Dominion, by restraining public servants from overstepping the bounds of official duty.

OGILVY & CO.

MONTREAL, September, 1871.

Messrs. OGILVY & Co.

GENTLEMEN,

I beg to inform you that I require a Post Entry of 25 per cent. to be made on the six cases, 29-in. Clan Kirtles, marked <o> Montreal, 657, 722, 724, 726, 727, 728, ex "Lake Erie," per Entry No. 680—value as per invoice, £377 4s 9d, stg. Also a Post Entry of 30 per cent. to be made on the three cases, 30-in. Tartan Kirtles, marked <o> Montreal, 734, 735, 736, ex "Lake Erie," per Entry No. 680—value as per invoice, £199 5s 2d, stg. Also a Post Entry of 50 per cent., to be made on six cases, 34-in. Clan Kirtles, marked <o> Montreal, 656, 694, 695, 725, 729, 730, ex "Lake Erie," per Entry No. 680—value as per invoice, £362 7s 9d, stg.

(Signed,)

J. C. VILLENEUVE,
Appraiser.

CUSTOMS EXAMINING WAREHOUSE,
Montreal, 21st July, 1871.

(S.)

MONTREAL, 26th July, 1871.

A. M. DELISLE, Esq.,
Collector of Customs, Montreal.

SIR,

We have a letter of date 21st instant, from Mr. Villeneuve, Appraiser, requiring us to make Post Entries of 25 per cent. on £377 4s 9d, stg.; of 30 per cent. on £199 5s 2d, stg.; and of 50 per cent. on £362 7s 9d, stg., value of goods entered by us.

As we have paid duties on the actual cost of these goods, we must decline to comply with Appraiser's requirement. We consider the goods are dear enough, and should be glad if you will advance them at 10 per cent. advance. If the Appraiser is any way near correct in his valuation, you will have a good bargain, and we shall be glad to hear if you take it.

Yours respectfully,

(Signed,)

OGILVY & CO.

A. M. DELISLE, Esq.,
Collector of Customs, Montreal.

SIR,

We wrote you yesterday on subject of Post Entries. We confirm our dissatisfaction with the appraisements.

Yours respectfully,

(Signed,)

OGILVY & CO.

(A.)

Custom House,

Messrs. OGILVY & Co.,

MONTREAL, 27th July, 1871.

Montreal.

GENTLEMEN,

I beg to acknowledge receipt of your letters of the 26th and 27th instants, expressing your dissatisfaction with the valuation made by Customs Appraiser of certain goods entered by you per Entry No. 680 and beg to inform you in reply thereto, that pursuant to the provision made in Act 31 Vic., Cap. 6, Sec. 43, I have summoned two disinterested merchants, acquainted with that kind of goods, to attend at the Customs Examining Warehouse, on Monday next, the 31st instant, at eleven o'clock in the forenoon, for the purpose of examining and appraising the same.

It is optional with you to be present at this appraisalment, and to offer such representations as you may wish in support of your interests.

I am, Gentlemen,

Your most obedient servant,

(Signed,)

A. M. DELISLE,

Collector.

(B.)

Custom House,

GENTLEMEN,

MONTREAL, 31st July, 1871.

I beg to transmit herewith, for your information, copy of the decision arrived at by the merchants summoned in accordance with the 43d section of Act 31 Victoria, Cap. 6, to examine and appraise certain "Clan and Tartan Kirtles," entered at the Customs by you per Entry No. 680, and have therefore to request that you will be pleased to amend your entry agreeably thereto, and pay the fee of \$5.00 to each of the referees.

I am, Gentlemen,

Your most obedient servant,

(Signed,)

A. M. DELISLE,

Collector.

Messrs. OGILVY & Co.,

Montreal.

(C.)

We, the undersigned Wholesale Importers of D-y Goods, having been summoned by A. M. Delisle, Esquire, Collector of Customs at this Port, to appraise a quantity of merchandise, contained in 15 cases, entered by Messrs. Ogilvy & Co., under Entry No. 680, do hereby declare, after a thorough examination of said goods, and hearing evidence touching the

same, that in our opinion the fair market value at place and date of shipment of said goods, was as follows, viz :

Six cases, 29 inches, Clan Kirtles (1s. 1d. stg.) say one shilling and one penny stg. per yard. Three cases, 30 inches, Tartan Kirtles (1s. 6d. stg.) say one shilling and sixpence stg. per yard.

Six cases, 34 inches, Clan Kirtles (1s. 10d. stg.) say one shilling and tenpence stg. per yard.

(Signed,) JAMES JOHNSTON,

(Signed,) GEORGE YOUNG.

Montreal, 31st July, 1871.

True Copy of Original remaining of record in this office.

(Signed,) A. M. DELISLE,

C. H., Montreal, 31st July, 1871.

Collector.

(D.)

Custom House,

MONTREAL, 4th August, 1871.

SIR,

Adverting to the Collector's letter of the 31st ultimo, I regret to have now to reiterate the request therein made, viz: that you would amend your Entry No. 680 of "Clan and Tartan Kirtles," according to the valuation made by the merchants summoned to examine and appraise the same, and pay the 50 per cent. additional duty, as provided by section 44 of the Customs Act, in cases of under-valuation to the extent of 20 per cent., as well as the fee of \$5.00 to each of the said referees, as fixed by section 43, sub-section 2, of the said Act,—so as to enable me to avoid the very painful necessity of requiring the production of the balance of goods in that entry, agreeably to the condition of your Special Bond No. 64.

I have the honor to be, Sir,

Your most obedient servant,

(Signed,) J. CRISPO,

Acting Collector.

Messrs. OGLVY & Co.,
Montreal.

MONTREAL, August 8th, 1871.

TO THE PRESIDENT AND COUNCIL OF THE BOARD OF TRADE:

GENTLEMEN,

We beg to lay the following statement before you with a view to receiving your advice and assistance, in what we conceive to be a very arbitrary and unjust proceeding towards us by the Customs authorities of this Port; and it being a matter of public interest that no obstacles should be put in the way of fair and honest trade, we hope to have the benefit of your valuable aid in the matter.

Last month we imported by the "Lake Erie" about £1000 sterling worth of Clan Tartans, last season's goods, bought from and invoiced by the well-known and highly honorable firm of Messrs. A. & S. Henry & Co., of Manchester and Bradford. We paid the duty, on entering the goods, at their correct cost and invoice value, on the 10th July, and were surprised, on the 21st of that month, to receive notice from the Appraiser for the Dry Goods Department to make a Port Entry of—

25 per cent additional value on	£377	4	9
30 " " "	199	5	2
50 " " "	362	7	9

We wrote the Collector, (as per copy herewith marked S,) and, on the 27th, got a document from him, which we enclose, marked A.* On the 31st, our two senior partners being absent, Mr. Thos. Ogilvy went to the Custom House in readiness to give any information, or to answer any questions. He was asked none, and would not be listened to by Mr. Johnston, but was told by him, "Oh, we know all about it, and we request you to leave the room," or words to that effect.

On the afternoon of the 31st we got the accompanying document, marked P, from the Collector, with enclosure marked C, and again, on the 4th August, one marked D.

We beg to state that Messrs. Johnston and Young are not "discreet and competent" judges in this case. Neither of them have been in the English markets for years, and, therefore, they are unable to form a correct opinion of goods of a fluctuating character, such as those in question. Besides, we are credibly informed that one, if not both of them, had previously seen and put valuations on our goods.

That we should now be called upon to pay duty on far above the value of the goods, and a fine of 7½ per cent. besides, is, we think, very monstrous.

We have got a number of certificates (fifteen) from merchants, most

* See these letters on pp. 7, 8 and 9.

of whom have only just returned from England. These we send for your perusal. All, you will observe, bear out our position.

We are,
Your obedient servants,

OGILVY & CO.

P. S.—We may mention that a large lot of the same goods have been entered at the same prices at the Port of Toronto.

TO THE HONORABLE S. L. TILLEY, C.B.,
Minister of Customs.

The Memorial of the Council of the Montreal Board of Trade,

RESPECTFULLY SHEWETH :

That the documents herewith transmitted, relating to a case of detention for alleged under-valuation of certain quantities of imported goods entered at the Port of Montreal, have been laid before the Council, viz. :—
 (1) Letter of Messrs. Ogilvy and Company, with accompanying papers ;
 and (2) the certificates or opinions of a number of merchants as to the values of said goods, which values have been called in question by a Customs Appraiser ;—

That the Council have considered the case with much care, and believe that the prices at which Messrs. Ogilvy & Co. entered the goods were the actual cash and fair market value of them at the time and the place of purchase ; and that the duty paid by them is the full amount contemplated by Parliament, in legislating respecting Customs Duties ;—

That, independently altogether of the particular case to which your Memorialists herein respectfully beg your attention, there is a principle involved in the action complained of, which will operate injuriously to the mercantile interests of the Dominion ;—

That the Council cannot but feel that it is unfair that commercial firms should be charged with under-valuing goods imported by them, and that they should not have opportunity to defend themselves, and show that they have acted honestly ;—and that the Council think the extra duty is of very much less consequence to any respectable firm, than the loss of standing and character involved in the charge of under-valuation ;—

That the manner in which the value of goods appears to be ascertained, by Customs authorities sending them round to numbers of merchants in the city,—as indicated by the Certificate,—and the opportunity thus afforded to the Collector to select persons whose valuation is in accordance with the views of the Appraiser, should not, in the opinion of your Memorialists, be continued ; and that if there is to be any reference to merchants for the purpose of appraising goods, it ought to be provided that the selection of such merchants should be by some person who has not already formed an opinion on the value of the goods, — and the merchants who act as such Appraisers should, in no instance, be persons who have been spoken to on the subject before they meet to appraise ;—

That it seems to the Council that, where the Importer is prepared to prove that the price at which he has entered goods is the actual cost, and fair market value,—and that no discount for cash has been deducted,—that no additional duty should be imposed ; but that, on the other hand

whenever the Government can unequivocally establish that there has been under-valuation, and show that the declaration of the Importer is false, then, and in that case, the legal penalties should be inflicted;—

That in the particular case herein referred to, Messrs. Ogilvy & Co. declare in their letter to the Council, that they had no opportunity to prove that their entry was correct, and that the prices in the Invoice and Entry were the true prices paid for the goods; for, although they were invited by the Collector of Customs to be present when the Appraisers met, they (Ogilvy & Co.) were requested by the Appraisers to leave the room, and were thus not allowed to make any statement;—

Wherefore, your Memorialists most respectfully beg, in the interests of justice, that you will intervene in the case before referred to;—

But more especially do your Memorialists solicit your intervention in the interest of the trade of the Dominion, and all the merchants honestly engaged in it,—that such practice as sending samples of goods through the trade be discontinued,—that the selection of merchants as Appraisers be limited to those who have not previously been spoken to on the subject,—that there be no additional duty charged, nor any fines imposed upon Importers who can establish that their entries have been made for the actual cost and fair market value of the goods, no discounts for cash having been deducted,—and that the most ample opportunities be given to any and every Importer to prove his case.

Most respectfully submitted, and signed on behalf of the Council of the Montreal Board of Trade,

(Signed)

WILLIAM DARLING,
Vice-President.

Montreal, 9th August, 1871.

(Signed)

WM. J. PATTERSON,
Secretary.

MONTREAL, 9th August, 1871.

TO THE HON. THE COMMISSIONER OF CUSTOMS,
Ottawa:

SIR,

We beg to present to you a case, which we feel much hurt and humiliated about, and we now humbly pray that you will be pleased to consider it without delay. On the 10th of July we entered a large lot of goods, at their cost and Invoice value. We were called on to add 25, 30 and 50 per cent. of Post Entries. This we declined doing, and requested the Collector to assume the goods, at 10 per cent. advance, as the law gives him power to do; but he refused, and nominated two persons to value them, inviting us to be present, to offer explanations. The law allows the valutors to put us on oath, and obliges us to answer all

questions and produce all documents connected with the case. We were asked none, but requested to leave the room.

Neither of the merchants called in have been in the English markets for many years, and are not competent judges in this case; besides, one, if not both, had previously valued our goods. The goods are a mixed lot, and all should have been surveyed. This was not done, as twelve cases out of the fifteen were in our possession at the time, and not looked at.

The very same goods have been entered at other ports at same quotations as our invoices, and nothing said.

Fifteen letters, from merchants quite recently returned from England, who have seen and valued our goods, will be sent to you by Montreal Board of Trade, all bearing out our position, and showing we have paid correct duties.

Our prayer is that you will at once give instructions to deliver up our goods, without further duty or fine, for unless this is done a stain will be put on our honor most difficult to obliterate. Already we have suffered much pain, and also a very serious loss from detention of our goods.

We are, &c.,

OGILVY & CO.

CERTIFICATES.

MONTREAL, 4th August, 1871.

I arrived on Tuesday last from Britain, per S.S. "Austrian," where I had been engaged for seven weeks in purchasing dry goods. When calling to-day on Messrs. Ogilvy & Co., I was requested by a member of the firm to give an opinion of the value of a certain lot of Tartan Kirtles, of which I was informed Mr. James Ogilvy had purchased eight hundred pieces. Taking into consideration the quantity procured, and that the goods in question had been for the space of one year in the hands of the party from whom they were obtained, and also taking note of the fact, that this class of goods is not as saleable as they once were, and therefore likely to be offered, in Britain, at a less rate than formerly, I came to the conclusion that Messrs. Ogilvy & Co. had had the goods invoiced to them at 1s. 1². per yard, which, under the circumstances above stated, I considered their fair market value.

(Signed,) JAMES BURT SUTHERLAND,
Of Laing, Sutherland & Co.,
London, Ont.

MONTREAL, 7th August, 1871.

Messrs. JOHN OGILVY & Co.

GENTLEMEN,

I have examined the invoices and account current of Messrs. A. & S. Henry & Co., of Manchester and Bradford, in the former of which are described the purchase of a large quantity of Kirtles, and I am quite confident they are true and faithful documents, and are the records of *bona fide* transactions between you and that eminent firm. In short, the City of Montreal could not purchase a fraudulent invoice from them.

I have also examined the goods, and certainly find them of fair value, and even somewhat lower than the *same weight* of goods could be procured of any new and fashionable styles for the present season's sale; but these goods are evidently of last season's production, and which have been sold at considerable reduction in price in the different markets of Britain; in fact, these kind of goods of fancy dress styles are continually selling at low prices. Cost of production is not thought of, and I have every reason to know the same kind of goods have been purchased by other houses at equally low prices, and in other cases been offered them, and declined to purchase.

It is quite absurd for parties here, who have not personally visited the different places of production of Fancy Dress Goods in Britain, this season,

to attempt the valuation of those kind of goods when their knowledge is limited to last season's prices and styles.

I would consider it unjust to make you pay more duty than the ordinary rate.

I remain, Gentlemen,

Your most obedient servant,

(Signed,) HENRY THOMAS.

MONTREAL, 7th August, 1871.

At the request of Messrs. Ogilvy & Co., I have this day examined several cases containing Clan Serges. Having but recently returned from England, where I have been purchasing goods for Messrs. W. & R. Muir, and therefore being perfectly familiar with the market, I have no hesitation in saying that these goods as a lot, are entered at their full and fair market value (at time and place of shipment) as per the invoices shown by them to me.

(Signed,) ARCHER ROBERTSON.

MONTREAL, 7th August, 1871.

At the request of Messrs. Ogilvy & Co., I have this day examined several cases containing Clan Tartan Kirtles. Their full market value is 10d and 1s 1d, sterling. I may also mention that my firm was about three weeks ago called on by one of the Customs Appraisers to put a value on these goods, and we then valued them at the prices given above; and I still maintain this is their full value.

(Signed,) JAMES MORGAN,
Of Henry Morgan & Co.

MONTREAL, 7th August, 1871.

By request of Messrs. Ogilvy & Co. I have looked over some cases of Clan Tartans imported by them this Fall, and though not prepared to set an exact value on them, not having bought any of such goods this season, I yet can state that while lately in the English markets I was offered same kind of goods, held over by parties from last year, at a reduction of from twenty to forty per cent. on last year's prices.

A. LAMARCHE,
Buyer for P. M. Galarneau & Co.

MONTREAL, 5th August, 1871.

Messrs. OGILVY & Co.

GENTLEMEN,

Having examined a fair representative of the fifteen cases Clan Kirtle Cloth purchased by you from Messrs. A. & S.

Henry & Co., Bradford, England, and from what I have seen with reference to all Clan Goods in the English markets this season, and in consideration of the quantity, and being a job lot, do give as my opinion that the price paid by you, namely, 10½d and 13½d, is nothing less than I would expect to pay for such a lot.

I am yours, very truly,

GEORGE HARDIE,
Sutherland, Hardie & Fleming.

Montreal.

MONTREAL, 7th August, 1871.

At the request of Messrs. Ogilvy & Co., I have this day examined a shipment of Tartan Dress Goods, ex "Lake Eric," cases $\langle o \rangle$. I am an importer and dealer in such goods. The values, as per O. & Co.'s invoices, viz., 10½d and 13½d, stg., I consider to be a fair and full value.

(Signed,) JOHN FRASER.

MONTREAL, 8th August, 1871.

Messrs. OGILVY & Co.

DEAR SIRs,

I have to-day been called upon by you to examine a large lot of Kirtles bought by you from the firm of Messrs. A. & S. Henry & Co., Bradford, Yorkshire.

I have examined the goods carefully, also the invoice from the sellers, and the account current to the Manchester house of A. & S. Henry & Co.

I consider the goods very cheap intrinsically, but the styles are not, in my opinion, desirable for the trade of the ensuing season.

I had the offer of several lots of goods of the same quality at about the same prices, and declined buying them, because I consider them unsuitable for the trade.

I cannot understand how any parties *here*, familiar with the English market during the present season, could put a higher valuation on the goods than the prices paid by you. I have just returned from the European markets, and am perfectly satisfied I could procure any quantity of the same goods at or under the prices upon which you have paid the duty, and consider the Appraisers entirely mistaken as to the value of the goods.

I am, Dear Sirs,

Yours, &c.,

(Signed,)

JAMES B. STEVENSON.

MONTREAL, August 7th, 1871.

I have to-day examined a number of pieces of Clan Tartan Dress Goods imported this Fall by Messrs. Ogilvy & Co.

Having very recently returned from making selections for my own business, I have not the least hesitation in saying that the prices paid by them, as per their invoice, viz., 10½d. and 1s. 1½d., are the full and fair market value of the goods, as I was frequently offered similar styles at a reduction of from 30 to 50 per cent. discount on last year's prices.

(Signed,)

JAMES DONNELLY.

MONTREAL, August 7th, 1871.

Messrs. OGILVY & Co.

GENTLEMEN,

As one of the firm of Messrs. James Roy & Co. I examined, at your request, both the goods and invoices of Clan Serges purchased from Messrs. A. & S. Henry & Co., which our Customs refuse to pass at the invoice price.

I am perfectly satisfied that the invoice represents the fair value of the goods at the place of production, and that no house in the world could get other than a *bona fide* invoice from them, authenticated by their signature.

I consider it unfair to the trade that men who have not bought goods in Britain for many years should be called upon to arbitrate in a case like this. Those, and those only, who are regularly in the habit of buying, personally, knowing the markets and their workings, are able to put a value on goods such as those in question.

Yours, &c.,

(Signed,)

JOHN GORDON.

MONTREAL, 5th August, 1871.

Messrs. OGILVY & Co.,

Montreal.

DEAR SIRs,

I have examined the following cases, viz., Nos. 694, 695, 723, 726, 727, 728, 730, 734, containing pieces Kirtle Tartans, and, comparing the goods with invoice, consider them to be at full market value. Similar Tartans were offered me, on 25th May last, in Bradford, at a reduction of one-third from last year's prices, and that in small quantities, where I could select just such patterns as would be saleable, while yours may not be properly proportioned. Having left England on the 13th July, where I had been to make our Fall's selection of Dry Goods, I should have no

hesitation in approving your invoice to be correct. I am satisfied most of the wholesale buyers of this season have seen those goods at the same prices as offered to me, and that they will say the goods are not invoiced under market value.

Yours truly,

(Signed,) WM. DENOON.

MONTREAL, August 7th, 1871.

Messrs. OGILVY & Co.,
City.

GENTLEMEN,

As requested by you, I examined a quantity of Kirtle Tartans, contained in cases Nos. 695, 723, 730, 728, 734, 694, 726, 727, of which you exhibited Messrs. A. & S. Henry & Co.'s invoices, which I recognize, showing that the goods were bought of them at 10d and 1s 1½d. These are last year's goods, and do not embrace the new Clans, and from the manner in which they are assorted, I consider you paid the full market value for the lot round and round. I may just add that in the month of May past I was repeatedly offered last season's Tartan Goods at 25 to 35 per cent. under the prices obtained in 1870; and that our London friend was offered a large lot by Messrs. A. & S. Henry & Co., in April, or early in May, which I believe to be the same which you afterwards purchased, and, as far as my memory serves, at these same prices, and he declined to buy them.

If there are any other points upon which I can give information I shall be ready to do so.

Very truly yours,

(Signed,) W. J. McMASTER.

MONTREAL, 7th August, 1871.

I have this day examined a large lot of Tartan Dress Goods imported by Messrs. Ogilvy & Co., and invoiced at 10½d and 1s 1½d, sterling. I consider this to be their full value. In my business I am often called on to make advances on goods. On this lot I would not advance within 15 per cent. of the invoice. I may also state that last month I was shown a sample of such goods, and which I now believe to have been Ogilvy & Co.'s, and asked to value them. My impression is I put a lower price on them than Messrs. O. & Co.'s invoice.

(Signed,) JAMES BENNING,
Of Benning & Barsalou.

MONTREAL, August 8th, 1871.

R. S. M. BOUCHETTE, Esq.,
Commissioner of Customs, Ottawa.

DEAR SIR,

This will serve to introduce you Mr. John Ogilvy, Dry Goods Importer of this city, who visits Ottawa for the purpose of explaining to the Hon. Minister of Customs and yourself, the entry for duty at the Customs here of a lot of Clan Tartans purchased by his firm, Messrs. Ogilvy & Co., this summer, in England. I have examined the invoices of these goods, as well as other documents connected with their purchase, and am perfectly satisfied they are all genuine and correct in every particular, and that it would be a grave injustice to Messrs. Ogilvy & Co., as well as a most dangerous concession to inexperienced and ignorant Appraisers, to cause them to amend their entry and pay duty on an increased valuation.

The numerous letters and vouchers, from many of our first-class importers, which Mr. Ogilvy can show you, will prove the correctness of my statement.

Yours respectfully,

(Signed,)

THOMAS WORKMAN.

North British Chambers,

MONTREAL, 14th August, 1871.

Messrs. OGILVY & Co.

DEAR SIRS,

I have examined the Invoices of Messrs. A. & S. Henry & Co. for £739 16s 9d and £199 5s 7d, and the account current in which they are charged, and have not the shadow of a doubt as to their being genuine. From our large correspondence with British houses, I know Messrs. A. & S. Henry & Co. to be of the highest standing, and incapable of falsifying their invoices, even if you (which is equally improbable) would ask it of them. I think such an imputation, both on them and you, is most cruel; and attempts of this kind, upon such frivolous grounds, should be frowned down by the Government, as not only unjust, but calculated to throw obstacles in the way of trade.

I have also read over the letters of Messrs. Stevenson, Hardie, Denoon, Donnelly, Laing, Gordon, etc., just from the British Market, men upon whose experience and truthfulness, full confidence may be placed; and in view of their distinctly expressed opinion as to the correct valuation of your goods, I do not see how the Government can hesitate for a moment to discontinue their demands.

I am, yours truly,

JAMES COURT.

EXCERPTS FROM CUSTOMS ACT.

First we give Declaration required on entering goods, viz:—

Declaration of the Owner, Consignee or Importer, with the Bill of Entry.

- (1) Name of Owner, Importer, or Consignee. I, the undersigned, (1) _____, hereby solemnly declare that the within Bill of Entry contains a true account of the goods imported as therein stated and whereof (2)
- (2) Name of Owner, Importer, or Consignee. (3) _____ the owner ; that the invoice herewith produced is the true and only invoice ; which (4) _____ ha received or expect to receive of the said goods, and that the prices of the goods as mentioned in the invoice, exhibit the actual cost (or the fair market value) of the said goods at the time and place of exportation, and that no discounts for cash are made in the said invoice prices.
- (3) Is or are, the Owner or Owners.
- (4) He or they,
- Signed at Montreal, on the _____ day of _____ 187 _____, in the presence of *

[REMARKS.—How could we have entered our goods save as we did in face of above declaration?—O. & Co.]

In all cases where any duty is imposed on any goods imported into Canada, *ad valorem*, or according to the value of such goods, such value shall be understood to be the fair market value thereof in the principal markets of the country whence the same were exported directly to Canada. And every Appraiser and every Collector, when acting as such, shall by all reasonable ways and means in his power, ascertain the fair market value as aforesaid of any goods to be appraised by him, and estimate and appraise the value for duty of such goods, at the fair market value as aforesaid.

Any Appraiser or any Collector, acting as such, (or the merchants to be selected, as hereinafter mentioned, to examine and appraise any goods, if the importer, owner, consignee, or agent is dissatisfied with the first appraisement) may call before him or them, and examine upon oath, any owner, importer, consignee or other person, touching any matter or thing which such Appraiser or Collector deems material in ascertaining the true value of any goods imported, and may require the production on oath of any letters, accounts, invoices or other papers in his possession relating to the same.

If the importer, owner, consignee or agent, having complied with the requirements of this Act, is dissatisfied with the appraisement made as aforesaid of any such goods, he may forthwith give notice in writing to the

Collector of such dissatisfaction, on the receipt of which notice, the Collector shall select two discreet and experienced merchants, familiar with the character and value of the goods in question, to examine and appraise the same, agreeably to the foregoing provisions, and if they disagree, the Collector shall decide between them; and the appraisement thus made shall be final and conclusive, and the duty shall be levied accordingly.

If in any case the actual value for duty of any goods as finally determined by the Appraiser or Collector, acting as such, or under the next preceding section, in the case therein mentioned, exceeds by 20 per cent. or more, the value for duty, as it would appear by the invoice and bill of entry thereof, then, in addition to the duty otherwise payable on such goods, when properly valued, there shall be levied and collected upon the same a further duty equal to one-half the duty so otherwise payable; and the value of any goods for duty shall never be appraised at less than the value for duty as it would appear by the invoice and bill of entry.

[REMARKS.—In short, supposing a merchant buys a lot of goods in England, and on entering them for duty the Appraiser takes it into his head that they should be entered at 20 per cent. more, and can get two merchants (as in our case) to agree to his views, then the importer must pay an extra duty on the 20 per cent. valuation and a fine of $7\frac{1}{2}$ per cent. on the whole invoice. Who looked after the merchants' interests when this was made law?—O. & Co.]

This is the proper writing referred to in the annexed affidavit of Henry Mitchell.

JOHN GURNEY, J. P.

I, Henry Mitchell, of Bradford, in the County of York, in England, Merchant, a partner in the firm of Messieurs A. & S. Henry and Company, trading as Merchants at Bradford aforesaid, and at Manchester, in the County Palatine, of Lancaster, in England, make oath and say as follows :

In the month of April last my said firm sold the goods mentioned in the copy letter hereto annexed, to Mr. James Ogilvy, of Montreal, in Canada, Merchant, at the following prices: the goods contained in the six cases therein referred to numbered <o> 657, 723, 724, 726, 727 and 728, at 10½d per yard; the goods contained in the three cases therein referred to numbered <o> 734, 735, 736, at 13½d per yard, and the goods contained in the six cases referred to numbered <o> 656, 694, 695, 725, 729 and 730, at 13½d per yard.

These goods had previously been shipped to New York, but they did not obtain a market in that city, and were returned to England as unsaleable. They were afterwards offered for sale in the London, Manchester, Glasgow and Bradford markets respectively, but they could not be, and were not, sold in any of such markets at such high prices as were afterwards obtained for them from the said James Ogilvy, as above mentioned. Other portions of the same goods, returned from New York as aforesaid, were sold by my said firm in France, at the same prices as, and no higher, than those obtained from the said James Ogilvy.

The sale to the said James Ogilvy, by my said firm, was made in good faith for the best price which could be obtained for the said goods, and, in my opinion, the said James Ogilvy gave a fair market value for such goods, as the same were a mixed lot, and are not worth the price set upon them for the purpose of assessing the duty payable in respect of them.

HENRY MITCHELL.

Sworn at Bradford, in the County of York, this 10th day of August, 1871, before me,

JOHN GURNEY,
*A Justice of the Peace for the Borough
of Bradford aforesaid.*

[Copy.]

I, John Jackson Townsend, of the firm of Messrs. Townsend and King, New York, hereby make oath, that the Tartans referred to in the annexed copy of letter, were sold by me to Messrs. A. & S. Henry & Co., Bradford,

at a price lower than they sold them to Messrs. Ogilvy & Co., Montreal, and that Messrs. A. & S. Henry & Co. got a fair profit on them. I further make oath that the price Messrs. A. & S. Henry & Co. paid for them was the best price I could get after trying the markets of London, Manchester and Glasgow.

(Signed,) JOHN J. TOWNSEND.

Sworn at Manchester, in the County of Lancaster, before me, this 10th day of August, 1871.

(Signed,) PETER RUJER, M.D.,
*One of Her Majesty's Justices of the Peace
for the County of Lancaster.*

(F.)

Custom House,

MONTREAL, 28th August, 1871.

GENTLEMEN,

I beg to inform you of the receipt of a letter from the Department, acquainting me that the Honorable the Acting Minister of Customs, having had under consideration your application relative to valuation by referees of certain Tartan goods entered by you at Customs here, is of opinion that the said goods were entered correctly, under the statute, at their fair market value; and, therefore, has been pleased to direct that the portion of the goods in our possession be delivered to you.

I am, Gentlemen,

Your most obedient servant,

J. CRISPO,
Acting Collector.

Messrs. OGILVY & Co.,
Montreal.

CRITICISMS OF THE NEWSPAPER PRESS.

VALUATION OF GOODS FOR CUSTOMS.

After giving an analysis of the Circular, the *Montreal Herald* of 21st September, says:

"In the end, after two months detention of the goods, or of that part of them which were taken to the Warehouse for examination, this prayer was complied with. Perhaps it is hardly necessary for us to comment on a recital, which, though compressed as much as possible, has already run to a considerable length. We could add no authority to the representation of the Board of Trade, composed of gentlemen, who unite to a knowledge of the class of transactions, of which this was one, a personal interest in preventing fraudulent entries—who cannot, therefore, be supposed to wish to screen any one really guilty. We shall, therefore, content ourselves with one observation,—it is, that at this moment, when the American merchants of the West are eagerly looking to this port as a relief from the oppressions of New York, it is of the highest consequence to prevent any system or any customs growing up here, which, by subjecting merchants to unjust exactions or needless embarrassments, would diminish the advantages which they expect to find in dealings carried on under our Government."

(From *Herald* of 23rd September.)

VALUATION OF GOODS.

With reference to the article published on this subject a couple of days ago, we have been requested to say that the Appraiser at no time either believed, or acted as if he believed, that the invoice presented by Messrs. Ogilvy & Co. was a fraudulent one, or as if it did not fairly represent the price they had paid for the goods entered. But he considered it his duty to see that the goods were entered, not at the price they cost, but at their value at the time of exportation. His theory is, that they were bought for less than their value, and that even if they were not, that value had augmented between the time of their purchase and that of their shipment. In support of this view, we are informed that he has certificates from gentlemen in the Dry Goods Trade equal in number, and, as he thinks, in value to those printed by the Messrs. Ogilvy. This of course narrows the question to one of a proof of value. But being admitted that the invoice was honest, and Messrs. Ogilvy in good faith, was it reasonable that these gentlemen should be subjected—we do not say merely to an augmented

rate of duty—but to a fine, which certainly implies punishment, and hence wrong doing? We might also remark that the presumption is strong that the price paid to a strong house was at the time a fair measure of the value, and that the increase of value, running from 25 to 50 per cent., was a large augmentation to be accounted for by mere lapse of time. We may presume that the Appraiser was in good faith as well as the importer; but whether the fault lies with the law or the administration of it, it is not the less hard measure for a respectable house, acting, as it is confessed, with perfect honesty, and basing its action upon authentic proofs of a real transaction, to be involved in a Custom House controversy, and to be visited with a fine upon the mere opinion of valuers, offset by the contrary judgment of other and equally well informed valuers. This was all the more hard, because the Messrs. Ogilvy proposed to the Collector a course which tested not only the honesty of the firm—if that were in question—but also the actual value of the goods as they estimated it. If in the opinion of the Customs authorities there really were good ground for insisting upon post entries at prices augmented from 20 to 50 per cent., it is manifest that there must have been a fair speculation in taking them at 10 per cent. advance on the first entry. We suppose that course when taken must be held to involve some reproach upon the importer; but certainly no greater reproach than the alternative of subjecting him to a fine as well as insisting on re-entry; and in the present case it was urged on the department by the Messrs. Ogilvy themselves. The latter gentlemen do not attack the Customs authorities with any bitterness. They complain of being wronged, and it seems to us that they have been; but whether by the due enforcement of the law, or the undue enforcement of it, is not a matter of much consequence, except in so far as concerns the mode of applying a remedy. But when merchants enter their goods at the honest price paid for them not very long before, to a house of respectability, not under any pressure to make sacrifices, and when they urge the Customs Department, on a demur to their entry, to take the goods at 10 per cent. advance, it seems hard to see what more can be expected of them. They can scarcely be bound to guess the highest prices, which some one else who has not bought goods may put upon them, under pain, in default of hitting that limit, of the disagreeable consequences of enhanced charges and a fine. The Appraiser has to act in accordance with the law, and under the obligation of an oath; but if he is right in this case, in the construction of the statute, the importer seems to require some protection as well as the revenue.

(From Gazette of 22nd of September. 1871.)

A P P R A I S E M E N T E X T R A O R D I N A R Y .

We have had on our table for some days a proof copy of a circular by Messrs. Ogilvy & Co., of Montreal, to the Importing Merchants of Canada, detailing what appears from the statement to have been a very cruel case

of oppression on the part of the Custom House Officials. The facts of the case, as stated by Messrs. Ogilvy & Co., are as follows :—A member of the firm, who spends most of his time in England, where he has amply opportunity for watching the markets, recently purchased a lot of tartan dress goods from Messrs. A. & S. Henry & Co., of Bradford, Edgland, part of which was sent to their house in Toronto, and at once passed through the Customs there ; the rest of them (15 cases) were re-entered here on the 10th of July, and duties were paid according to Messrs. A. & S. Henry's invoices, which truly showed what the goods had cost. Two cases of the fifteen were taken to the Examining Warehouse, as required by law, for inspection. They were kept there for eight or ten days, during which time the Appraiser carried samples to a number wholesale and retail houses in the city to get valuations put on them. On the 21st July, Messrs. Ogilvy & Co. were called upon by Mr. Villeneuve, the recently appointed Appraiser, to make post entries, *i. e.*, to pay additional duties of from 25 to 50 per cent.,—in other words to add about $33\frac{1}{3}$ per cent, to the cost of the goods, pay duties accordingly, and also a fine of $7\frac{1}{2}$ per cent, upon the whole invoice. To this they very naturally demurred, and, with the apparent desire of avoiding any trouble, offered to give up the goods upon the ten per cent advance, as provided by law. The Collector refused to take them on those terms, and two merchants were called upon, as provided in the Customs Act, to value the goods. These two gentlemen met, and notwithstanding that the Collector had invited Messrs. Ogilvy & Co., to be present, and although the law expressly provides that in such cases evidence upon oath may be taken touching any matter or thing which may be deemed material in ascertaining the true value of any goods imported, they were asked no questions, but on the contrary were requested to leave the room. The result of this appraisement was a certificate confirming the estimate of the Official Appraiser, the certificate declaring that the valuation had been arrived at "after a thorough examination of said goods, and hearing evidence touching the same," notwithstanding that some twelve cases had not been examined at all, and that the gentleman who was most competent to give evidence, and who ought, in common courtesy, to have been examined upon oath was not permitted to make any observation, but was even excluded from the room while the examination was proceeding.

Messrs. Ogilvy & Co. very properly still refused to submit to what they considered not only an unfair and improper appraisement, but a cruel imputation upon their honour as merchants. They presented the case to the Board of Trade, their letter being dated on the 8th August, a week after the official notification of the result of the final valuation. With the letter were fifteen certificates from merchants who had just returned from England, and who were well acquainted not only with the class of goods in question, but with the market value of such goods in Great Britain. These certificates all declared the goods to have been entered at their fair value ; some of them saying that they had been offered the same goods at the prices invoiced and had not purchased them. The matter was taken up at once

by the Board of Trade, and on the 9th August, a memorial was sent to the Minister of Customs, reciting the facts, enclosing the certificates, and soliciting his "intervention in the interest of the trade of the Dominion, and all the merchants honestly engaged in it,—that such practice as sending samples of goods through the trade be discontinued,—that the selection of merchants as Appraisers be limited to those who have not previously been spoken to on the subject,—that there be no additional duty charged, nor any fines imposed upon Importers who can establish that their entries have been made for the actual cost and fair market value of the goods, no discounts for cash having been deducted,—and that the most ample opportunities be given to any and every Importer to prove his case." At the same time Messrs. Ogilvy & Co. addressed a letter to the Minister of Customs, praying that the goods might be given up to them ; without the imposition of any fine, or the payment of any duties other than those originally and honestly paid. Mr. John Ogilvy visited Ottawa at the same time, taking with him a letter of introduction to Mr. Bouchette from Mr. Thomas Workman, in which the opinion is expressed "that it would be a grave injustice to Messrs. Ogilvy & Co., as well as a most dangerous concession to inexperienced and ignorant Appraisers, to cause them to amend their entry and pay their duty on an increased valuation." On the 28th August, Mr. Crispo, the Acting Collector of Customs, addressed a letter to Messrs. Ogilvy & Co., informing them of the receipt of a communication from the Department, acquainting him with the fact that the Honourable the Acting Minister of Customs, having had under consideration their application relative to the valuation by referees of the tartan goods entered by them at the Customs here, was of opinion that the said goods were entered correctly, under the statute, at their fair market value ; and, therefore, had been pleased to direct that the portion of the goods in possession of the Custom House be delivered to them.

This is the case as it appears from the circular before us, and our readers will agree with us in the opinion that it is a most extraordinary one, one calling for much more official notice than the mere re-delivery of goods after a detention of nearly two months. It is very much to be regretted that it should have followed so closely upon the appointment of a gentleman as appraiser in the Custom House here, about whose qualifications for the position very grave doubts existed at the time. Mr. Workman, in his letter to Mr. Bouchette, speaks of him as "inexperienced and ignorant," expressions which it should be impossible to apply to a gentleman occupying so important a position at the chief port of entry of the Dominion. And yet the simple facts of the case, as presented in the official documents submitted by Messrs. Ogilvy & Co., force us to the conclusion that they are not altogether inapplicable in this particular instance. That, in this case, he made some efforts to ascertain the value of the goods before venturing to charge a highly respectable firm with an offence so heinous that we hesitate to call it by its proper name, is evident from the documents before us. Mr. James Morgan, in his certificate, after stating that the invoiced price was a fair market price for the goods, says:—"I may

“also mention that my firm was about three weeks ago called on by one of the Customs appraisers, to put a value on these goods, and we then valued them at the prices given above.” Mr. James Benning, of the firm of Benning & Barsalou, after stating that on this lot of goods they would not advance within fifteen per cent. of the invoice, says:—“I may also state that last month I was shown a sample of such goods, and which I now believe to have been Ogilvy & Co.’s, and asked to value them. My impression is, I put a lower price on them than Messrs. O. & Co.’s invoice.” Here there is evidence that these goods had been shown to persons with a view to ascertaining their value; and evidence that at least two firms, whose opinion on the value of goods is certainly trustworthy, decided that they had been properly entered. How many gave a different opinion does not appear; but the statement made that at least one who did so was afterwards called upon to appraise the goods is a most damaging one. The law, in submitting the appraisal to “two discreet and experienced merchants” in case of dispute, certainly never contemplated that those merchants, or either of them, should be personally interested, even to the extent of having expressed an opinion, in the result. To admit the principle acted upon by the Customs authorities here is simply to place the honour of every merchant at the mercy of the appraiser. If, when impulse moves him to consider goods under-valued, he may hawk samples round until he finds some merchant willing to say that they are under-valued, and then call upon that merchant to give “final” judgment, no importer can consider himself safe. And when it is remembered that the appraiser has a direct pecuniary interest in discovering that goods have been entered too low, to allow practices such as those exposed in this case is simply to put a premium upon excessive official interference on the part of appraisers.

We write thus with the greatest pain. It can be no pleasure to us to find fault with public officials whose duties are at all times onerous and responsible, and who are entitled to great forbearance and consideration in the performance of them. But the interests of the trade of the city, and the honour of our merchants are matters of infinitely greater moment. We cannot forget that the present appraiser received his appointment in violation of a principle which should, especially in positions where technical knowledge is required, be always inviolable. He had had no experience in the appraiser’s office, and although an admirable statistical clerk, had had no opportunity of showing any special aptitude for the duties of appraiser. The first results of his appointment are certainly not calculated to inspire, public confidence either in his ability or judgment; and we are strongly of opinion that the Government should follow up their action in restoring the goods to Messrs. Ogilvy & Co., by such changes in the appraiser’s department as would inspire some degree of confidence for the future. We can assure the Minister of Customs that in saying this, we speak the almost unanimous opinion of the merchants of Montreal, and we certainly speak in the interests of the trade of the whole Dominion.

(From Gazette of 25th September.)

THE SYSTEM OF APPRAISEMENT.

The circular issued by Messrs. Ogilvy & Co., to which we made reference on Friday morning, and in which they lay before the merchants of Canada the particulars of a case of appraisement in the Custom House here; calls for notice apart altogether from the particular firm interested. We have been assured, in connection with that case, and have been requested to make the statement, that the Appraiser did not, in requiring a post entry to be made by Messrs. Ogilvy & Co., desire to impute any dishonest intent either to them or to the firm from whom they had bought their goods. On the contrary, he was quite satisfied that the invoice presented was a just and honest invoice, that it did not represent "cash values," but was for the "usual and ordinary credit;" and that it was only because such a course would be an imputation of intended fraud, that the goods were not taken at the 10 per cent. advance as offered by Messrs. Ogilvy & Co. This explanation having been made at the request of Mr. Villeneuve himself, we proceed to consider the whole question.

The doctrine laid down by the Custom House authorities at this port, in this case, is that the invoice of goods is not to be taken for purposes of duty,—that in fact the market value of goods is something different from the price paid for them; and that merchants, therefore, in making entries, are bound, not simply to submit their invoices, but bound to consider whether they have not paid too little for the goods, and to add enough to the invoice to bring them up to a higher value. Such a doctrine, thus simply stated, seems to us so monstrous that we can hardly imagine it to have been the intention of the law. The 30th clause of the Customs Act, it is true, seems to favour that view, but read in connection with the entire Act, we are inclined to think that it is open to the more reasonable one. The following is the clause:—"In all cases where any duty is imposed on any goods imported into Canada, *ad valorem*, or according to the value of such goods, such value shall be understood to be the fair market value thereof in the principal markets of the country whence the same were exported directly to Canada. And every Appraiser and every Collector, when acting as such, shall, by all reasonable ways and means in his power, ascertain the fair market value as aforesaid of any goods to be appraised by him, and estimate and appraise the value for duty of such goods, at the fair market value as aforesaid." Now, the question is what is to be esteemed the fair market value? The following clause states it thus:—"The fair market value, for duty, of goods imported into Canada, shall be the fair market value of such goods in the usual and ordinary acceptance of the term at the usual and ordinary credit, and not the cash value of such goods, except in cases in which the article imported is, by universal usage, considered and known to be a cash article, and so *bona fide* paid for in all transactions in relation to such article; and no

"discounts for cash shall in any case be allowed in deduction of the fair market value as hereinabove defined; and all invoices representing cash values, except in the cases hereinabove referred to, shall be subject to such additions as to the Collector or Appraiser of the port at which they are presented, may appear just and reasonable to bring up the amount to the true and fair market value as required by this section." This last sentence in the clause seems to us to govern in the interpretation of the whole. It assumes the invoices to be the test of value, because, where the invoice is for cash, and then only, is the Collector or Appraiser entitled to make any addition to it. Even the extent of that addition is limited to an amount necessary to bring up the prices to the value "at the usual and ordinary credit." It seems tolerably clear, therefore, that except where the Collector or Appraiser may have reason to suspect that the invoice is a fraudulent one, the only ground upon which it can be rejected for the assessment of duty is that specified, namely, where it represents "cash values."

And this view is sustained by other clauses of the Customs Act. Thus by the fourteenth clause the collector is empowered to require, on the entry of goods, the "production of invoice or invoices," as proof that the "goods are properly described and rated." The reason for the appointment of appraisers is stated to be the protection of "the revenue and the fair trader against fraud by the under-valuation of any such goods"; showing that the appraisers' right to interfere, except in the one case of "cash values" is limited to cases of "fraud by undervaluation." No one pretends that a man is guilty of fraud by undervaluation, when he produces an honest invoice of goods at the ordinary rates of credit, even though he was fortunate enough to purchase at a bargain. So by the 42nd clause, it is declared that the appraiser, or collector acting as such, "may call before him or them and examine upon oath any owner, importer, consignee, or other person, touching any matter or thing which such appraiser or collector deems material in ascertaining the true value of any goods imported, and may require the production on oath of any letters, accounts, invoices, or other papers in his possession relating to the same." Now it is quite clear that all this proceeds upon the presumption of a suspected or fraudulent invoice; and not to one honestly setting forth the price at which goods were purchased, "at the usual and ordinary credit."

There is but one clause in the Customs Act which, even by implication, would impose upon the importer the obligation of fixing for duty a value on goods different from that paid for the goods, viz., the 38th clause, which reads:—"In any such Bill of Entry as aforesaid, the person making the same may add such sum to the value stated in the invoice, as will be sufficient to make the value for duty such as it ought to be, and such value shall then, for the purposes of this Act, stand instead of the value, as it would appear by the invoice." But this must refer either to cases of cash invoices, or to cases where the invoice does not represent the amount

paid for the goods, and is, therefore, a fraudulent invoice, the presentation of which, if its fraudulent character were established, would cause the forfeiture of all the goods. Inasmuch, however, as the whole system of appraisement is, within the terms of the Act itself, simply to protect "the fair trader from fraud by under-valuation," it is perfectly clear that it was never intended to go behind an honest invoice to ascertain the value of goods.

Minister

Although, looking at the Act in all its clauses, we arrive at this conclusion, and although it is evident that the Acting Collector of Customs, Mr. Campbell, took the same view, there is no doubt that a different principle has governed the conduct of the Custom House Officials at this port. For this reason, it is to be hoped that the law will be so amended as to remove from it all ambiguity. To impose a penalty upon a merchant for no other reason than that he had been fortunate enough to buy his goods at a low price, to make his doing so, and presenting the actual invoice of prices paid for them, "a fraudulent under-valuation" to be punished by heavy penalties, is surely most extraordinary legislation. The distinction between cash invoices, and invoices according to the custom of the trade for credit, is one, the reasonableness of which may be apparent enough. It is a protection to weaker against stronger houses, and it encourages trade by preventing monopoly. But to say that the ordinary business energy which watches the market, and secures purchases on the best terms, is to be thus punished, is to lay down a doctrine that ought not for one moment to remain embodied in the legislation of the country.

